

**LANA‘I PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 16, 2020**

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, September 16, 2020, online via BlueJeans Meeting No. 731082245.

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

Ms. Shelly Preza: Thank you. Yeah, so I'm going to go ahead and call the meeting to order. If you are a commissioner and you're joining us via Bluejeans please turn on your video if possible. And if you're just joining us, and I see that pretty much everyone else has muted their video which is awesome. If you could also make sure to mute your audio at this time that would be really helpful for us.

As always I'm just going to start with roll call real quick. So commissioners when I call your name if you could just unmute yourself and let, let everyone know you are here or if you are here. So Chelsea Trevino? Not here. Roxanne?

Ms. Roxanne Catiel: Here.

Ms. Preza: Thank you. John Delacruz?

Mr. John Delacruz: Here.

Ms. Preza: Thank you. Sally Kaye?

Ms. Sally Kaye: Here.

Ms. Preza: Sherry Menze?

Ms. Sherry Menze: Here.

Ms. Preza: Thank you. Natalie Ropa?

Ms. Natalie Ropa: Here.

Ms. Preza: John Ornellas?

Mr. John Ornellas: Here.

Ms. Preza: Thank you. And Shirley Samonte.

Ms. Shirley Samonte: Here.

Ms. Preza: Thank you very much. I'm also going to go read through the meeting rules just in case anyone is just joining us or is joining us for the first time so everyone knows what the protocol is. So if you would like to provide written testimony then that should have been emailed to the Planning Department yesterday. And testifiers, if anyone in the audience would like to testify, then public testimony will be taken when each agenda item is called. And so testimony will be limited to a maximum of three minutes. I will call for testifiers, and if you're muting your audio and video, you will be able to unmute at that time. And also if you would like to sign up to testify, if you could directly message Leilani, letting her know your name, what you would like to testify, which agenda item you'd like to testify on, and she will let me know who had signed up at that time. And so I will ask everyone via this platform, Bluejeans, if they would like to testify and then I'll call to see if anyone calling in via phone would like to testify also.

Let's see. Commissioners shouldn't be contacted via the chat function, so the "everyone chat" function really should be used by the audience. But if you do have a question, I would directly message Leilani, but we will not be checking the chat, or using the chat during this meeting. Great. Okay, thank you all again for being here. I hope you're all doing well.

We're going to get started on Item B.1. which is a bill for an ordinance amending Chapters 19.35, 19.64, and 19.65. I believe we do have a presentation in regards to this agenda item and so I will call for public testimony after the presentation. Thank you.

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

1. A BILL FOR AN ORDINANCE AMENDING CHAPTERS 19.35, 19.64 AND 19.65, MAUI COUNTY CODE, RELATING TO ACCESSORY DWELLINGS, BED AND BREAKFAST HOMES AND SHORT-TERM RENTAL HOMES

MS. MICHELE COUTEAU MCLEAN, AICP, Planning Director, referring to the Lanai Planning Commission a Proposed Bill to Amend Chapters 19.35, 19.64 and 19.65, Maui County Code, Relating to Accessory Dwellings, Bed and Breakfast Home Permits and Short-Term Rental Home Permits.

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Chapters 19.35, 19.64, and 19.65 are proposed to be amended to allow bed and breakfast and short term rental home operations in accessory dwellings, subject to restrictions that encourage long-term occupancy; limit short-term rental homes to one per property and per applicant;

**clarify trusts and ownership requirements; expand notification requirements to neighbors of the property; and other minor revisions.
(Jacky Takakura)**

Ms. Jacky Takakura: Okay, is it alright if I start?

Ms. Michele McLean: Yeah, go ahead Jacky. Sorry, I just wanted to say aloha commissioners. It's to see all of you. It's been a little while, and thank you for all attending the meeting tonight. Jacky Takakura will do the presentation on the first two items on the agenda. And then Jacky and I will both be available for questions. Thank you Chair.

Ms. Jacky Takakura: Good evening Chair Preza and the Lanai Planning Commission members.

Ms. Preza: I think there's a lot of noise happening, so if you're just joining us if you could please mute, be sure to mute your audio so that everyone can hear the presentation clearly. I see that most people have muted themselves. But please do check if you have not yet muted your audio to mute so that everyone can hear the presentation clearly. Thank you. Go ahead Jacky.

Ms. Takakura: Okay. Good evening everyone, Chair Preza and Lanai Planning Commission members. It's nice to see you all. Aloha from Wailuku, Maui. So I just have a few slides to go over with this proposed bill for ordinance. And so I'm just going to share screen. And it's just like I mentioned, a few slides, and then I'll just go over the proposed changes and then we can discuss after. So I'm going to share screen now. And if you don't mind --. Oh, you know what, I'm really sorry. I have to close the door just a minute. They're vacuuming so just a second.

Okay, thank you. So can you give me thumbs up if you can see that light blue screen that has the proposed bill for amendment chapters? Okay, great. Thank you. And can you hear me because they're vacuuming out in the hallway. Is that alright?

Ms. Preza: Yes, you sound clear. Also, I just wanted to mention for those of you who are joining us via Bluejeans, and you're not familiar with the platform, there's a way view the slideshow bigger, the -- Jacky's screen -- if you go to the bottom left, there's like a little blue bar that you can slide to designate what you would like your display to look like. So you can put it on the right most one or the one that's almost all the way to the right if you want to see that screen blown up. Thank you.

Ms. Takakura: Okay. Thank you. Okay, so the Department of Planning proposes to revise Chapters 19.35, 19.64 and 19.65 of the Maui County Code. These chapters relate to Accessory Dwellings which is 19.35, Bed and Breakfast Home Permits which is 19.64, and Short-Term Rental Home Permit 19.65. And in this presentation I'll briefly go over the proposed changes to these chapters.

The overarching goal, the why of this, is to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy. We also want to clarify trusts and ownership requirements, and expand notification requirements to neighbors, and other minor revisions to Chapter 19.64 and 65 for clarity and consistency purposes.

And so we're sharing this information with the Lanai, Maui and Molokai Planning Commissions. You're the first group. Okay so before we start, I just wanted to give you an update of the bill specific to Lanai because I'm sure you would all, you know, this would be the first question in your mind. You folks have worked really hard on this. For the bed and breakfast and short-term rental home bills, those were passed, as you know, by your body, the Lanai Planning Commission. And Corporation Counsel completed their review of the bills. And so then we transmitted the bills to the Mayor on September 10th for approval, and then it will be routed to the County Council. So those are in the works.

Okay, and then the next one is the Lanai vacation rental moratorium. And you might be aware that the County Council Planning and Sustainable Land Use Committee passed it out of committee on August 28th. And then the Full Council passed it at First Reading on September 11th, last Friday. And then the next step will be approval at Seconding Reading, then the Mayor's signature, and then certification by the County Clerk. So those are well on their way through the process. So good job all of you for all that hard work you folks put in.

Okay, so now let's look at the proposed revisions that we have before you today. So as I mentioned it's three chapters, 19.35, 64 and 65 of the County Code. And the goal is to allow for some flexibility in transient vacation rental use in accessory dwelling units while encouraging long-term occupancy. We're going to add some limits to permits per property and per applicants. We want to clarify trust and ownership requirements, expand vacation rental notification requirements to neighbors, and other minor revisions to the bed and breakfast and short-term rental home chapters for clarify and consistency purposes.

The bill does not propose any changes to permit number limits for Maui and Molokai. It follows the Lanai Planning Commission's recommendations for permit numbers for Lanai. And I'm going to repeat that, it does not reduce permit number limit. And also this bill was something that we've been working on for a while, pre-COVID 19. So I know things are a little different right now, but these proposal are needed so we decided to move forward. As we go on you're going to see that there's some font or text in green and there's some in red. The green is more permissive, and the red is more restrictive. And just the black is neutral. So you're going to see that throughout this presentation.

Okay, so let's start with the first chapter that we propose to change, and that's 19.35, accessory dwellings. And what we're proposing is that an accessory dwelling maybe only used as a short-term rental home if the main dwelling and any other accessory dwelling that's applicable are occupied on a long-term residential basis. That's for short-term rental homes. For bed and breakfast, only one accessory dwelling per lot may be used. And so what does

this mean? This means that for short-term rental homes, it would be okay to have it in the accessory dwelling if the main dwelling and any other accessory dwellings are used for long-term occupancy. And for bed and breakfast, it would be okay in one accessory dwelling. So this would allow for some flexibility for the property owner while still requiring some long-term residency. If there are two dwellings on a property and the owner wants to do a short-term rental home, then it might be preferable for them to do the short-term rental home in the ohana, and rent the main house out long-term. More room for a local family. Right now, but rules as they are, they would have to do the short-term rental home in the main house and rent the ohana long-term. So this here, that's all the changes that we're proposing for 19.35, Accessory Dwellings.

So the next part is 19.64, and that's the chapter on Bed and Breakfast Home Permit. And this first part that you see here in green, that kind of parallel what we just said in 19.35, that the bed and breakfast use may be permitted in no more than two single-family dwelling units per lot pursuant to Chapter 19.35. And what that means is that it would be okay for the bed and breakfast to be in the main dwelling, and or one accessory dwelling for a total of two dwelling units. Any other dwelling units on the property must be occupied long-term.

Okay, so the next proposed change is that bed and breakfast homes would be limited to single-family dwelling units constructed at least five years prior to the date of application for the B&B unit, and the dwelling unit must be owned by the applicant for at least five-years prior to the date of application. These construction and ownership requirements are aimed to reduce speculations and encourage a connection to the neighborhood. Bed and breakfast have not had an ownership requirement before, but short-term rental homes already have this requirement.

The next item as you know, the cap would be set for 21 for Lanai. And then this bottom one in italics that you see is something that we are proposing for the short-term rental home side. We would like to have the same language in the bed and breakfast side that no bed and breakfast permit may be issued to any person who holds a valid short-term rental home permit, or who has been banned from applying for a short-term rental. And like I said, we have this already proposed in the Chapter 19.65. And this would allow others an opportunity to benefit from bed and breakfast investments, and it eliminates a loophole for rule breakers.

This is regarding signs for bed and breakfast homes. Right now the current rules require a 16 square foot sign for Maui and Lanai. What we are proposing is the same sign requirement as is required for short-term rental homes, and that is a four square foot sign. And then the timing would also be the same as for the short-term rental homes, no more than 10 days prior to the mailing of the notice of application, the four square foot project notice sign would be posted, and then it may be removed after 45-days from the mailing of the notice of the application. So this would just make it consistent with the other chapters, Chapter 19.65.

These are all, also to, for consistency purposes, public hearings. A Planning Commission review is required. The processing requirements would be the same as the short-term rental

home requirements. Also the criteria for public hearings, right now for bed and breakfast includes one existing bed and breakfast on a lot within 500 square feet, to be consistent. For short-term rental homes it's two so we propose revisions to make both chapters two. I know Lanai has some specific requirements with the 300-foot. We would keep that for Lanai. That wouldn't be changed.

The last item here regarding the real property tax classification, we would like to include that as prima facie evidence of the operation of the bed and breakfast. And that's just another tool for enforcement to pursue illegal.

So that's it for short-term, I mean for bed and breakfast. Now we're going to move to Chapter 19.65 for the short-term rental homes. And this first item here is regarding the accessory dwelling. So it's similar to what we proposed in 19.35 that the short-term rental home use would be permitted in no more than one single family dwelling unit per lot on Maui and Lanai, and that would be either the main dwelling or the accessory dwelling. And then the other dwelling unit has to be occupied long-term.

So the next proposed revision is regarding trusts. And this provision would require that the trustee belong to the family of the family trust. And we worked with Corporation Counsel on the trust language as we have had some trouble with two short-term rental home applications from trusts. And so what the proposal is that trusts must be in the name of the applicant. And a family trust is defined as a self-settled revocable trust where the trustees are also the trustors or grantors or is related by blood, adoption, marriage, or civil union to the beneficiary. Next proposal is one permit per applicant, and then that the permit would not be transferrable in any way. And this would eliminate loop holes that may be used for investment purposes.

Okay, so the next part for the short-term rental homes is additional criteria which would assist the applicant in conforming to the character of the existing neighborhood and being a part of the community. This would assist the short-term rental home applications getting approved when they go to the Planning Commission. And this information, you know, the benefits that the short-term rental home would bring to the community and the justifications and reasons for applying for short-term rental home use and how the property would be used if the permit is not granted. This kind of information often comes out of the hearing, but it should be included up front in the report and analysis.

The next item which is in red is increasing the construction and ownership requirements. That the short-term rental home could be limited to single-family dwelling units constructed at least 15 -- one, five -- 15 years prior to the date of the permit applicant, and the dwelling unit be owned by the applicant for at least 15 years prior to the date of application. And this was requested by the Mayor. And it's intended to encourage a connection to the neighborhood.

Okay, so next proposed change which you know is the Lanai cap of 21. The next one is the experimental and demonstration housing project. And the purpose of this kind of housing project is to reduce the cost of housing in the State in accordance with HRS, HRS 46-15. Like

with the affordable housing and workforce housing, vacation rentals are inconsistent with the purposed of this kind of housing.

Next item, something I just mentioned that we'd like to have consistent in the bed and breakfast chapter is that no short-term rental home permit maybe issued to anyone holding a bed and breakfast permit or has been banned from applying for a bed and breakfast. And this would allow others an opportunity to profit from short-term rental home investments, and will eliminate a loophole for a rule breaker.

Okay, the next proposal is that the ads would include the physical street address. And this allows for verification. And then the last item on this slide, the owner can't have a financial interest in another bed and breakfast or STRH. And again, this allows others an opportunity to apply benefit from a short-term rental home investment.

Okay, next one is notification, and right now the existing notification procedures include owners and lessees were often non-residents, and neighbors are currently excluded. So we'd like to include the physical addresses to be included when notices have to go out. So that physical address is in a couple of places in the proposed revision.

The next item, just like with the bed and breakfast, including the tax class as evidence. That's another tool for enforcement to pursue illegal. And then the last item on this one -- I apologize, that's my bad -- I have an error on the graph that is included in the memo to the commission. I must have copied and pasted something and I didn't notice it. The correct proposal was just changing the "shall" to "must" which you see quite a bit in throughout this bill for ordinance. And that's consistent with the way that they've been revising the code overall. And so for that part of the code it should just be changing the "shall" to the "must" and I'm very sorry for that.

Okay, so in summary what we're proposing are that accessory dwellings to be used for bed and breakfast or short-term rental homes of other dwellings are occupied long-term. We defined family trust, updated ownership requirements. Limiting short-term rental home permits to one per property and per applicant. We're proposing consistency between the bed and breakfast and the short-term rental home rules. Easier for applicants, easier for compliance, and we'd like to encourage compliance. It's easier for staff. Including neighbors in the communications. So this bill is to offer options to permit holders, and it should help protect the character of the neighborhood. And like I said, you know, consistency, notification. I'm trying fix some snags that we've seen in the process of it. That should benefit everyone. I does not affect existing permit holders. However we would like to propose that existing permits would have to follow whatever rules are in place at the time they apply for renewal. That would be easier for the public, for the permit holders, the neighbors, the staff; everybody to follow the same set of rules. I would like to propose that one last thing about -- you know whatever rules are in place at the time of the renewal that's what the . . . (inaudible) . . .

So that's the proposed changes. The commission has a couple of options. We're requesting that you would approve the proposed amendments to the three chapters. You can do that.

You can approve the bill and we would forward it to the County Council. Or you can put amendments, or you can defer or, you could recommend denial. So I'd love to hear your feedback and testimony, and we'll do our best to answer any questions. Thank you. I'm going to stop screen sharing now. Thank you.

Ms. Preza: Thank you Jacky. And Leilani, am I correct for the audience that slide deck is available on the county website or --

Ms. Ramoran-Quemado: I will be make it available, but I believe Jacky also placed it on the website too.

Ms. Preza: Okay. Thank you. Sorry. Thanks so much.

Ms. Takakura: Yes.

Ms. Preza: You know with virtual time we have to make everyone can get the information if they need. Thank you so first --. Sorry Alberta, if you could --. Okay, thank you. Sorry I was going to say if only commissioners could be on their video that would really helpful to us to keep everything organized. Leilani, has anyone asked to testify on this agenda item?

Ms. Ramoran-Quemado: Thank you Chair. No one has signed up to provide testimony.

Ms. Preza: Okay. Is anyone -- did anyone not chat to Leilani and would like to testify at this time? No. And if anyone is calling in via the phone, would anyone like to testify via phone on this agenda item? Okay, there being none, then I'll close public testimony at this time. And commissioners if you have questions for Jacky or Michele, or if you have any comments on this proposed amendment, these proposed amendments, what do you think. Please feel free to un-mute yourself to talk.

Okay while you folks think about it I have a couple of questions. One of my concerns was the phrasing of discussing that the primary resident must be lived in for a long-term residential basis, that phrase right there. And I guess I'm just wondering if you folks could clarify that for me. So Jacky or Michele, I don't know if we need wording in there to define what long-term basis is.

Ms. McLean: Thank you Chair, that's a great question. Long term residency just means not short-term residency. So it could be, for example, if someone owns a property and uses one of the dwellings for their second home and does a short-term rental home in the other dwelling that would be possible too. The County defines the difference between short-term and long-term at 180-days. So right now as Jacky described there was a recent code change that said ohanas cannot be used for vacation rentals. And we felt pretty confident about that because ohanas really provide a lot affordable housing opportunities for people. But then we realized that there could be situations where someone who owns a property with a main house and an ohana would prefer to live in the ohana themselves and do their vacation rental in, in the

main dwelling. So that's why we're proposing this change to allow the flexibility with the goal being that we want to see some long-term residential use of the property so that the whole thing isn't used for short-term rental if there's more than one dwelling on it. So that the, that's the genesis of it.

Ms. Preza: Thank you Michele. Sorry I have two questions that came out of your response from that so thank you so much for explaining. First of all when you say ohana, you mean accessory dwellings, right? Just so we're all on the same page. Ohana dwellings are accessory dwellings.

Ms. McLean: Correct. Yeah.

Ms. Preza: Okay. Thank you. Thank you for that clarification. So I guess I'm wondering -- so what you're saying is because long term residency is defined by being there over 180-days, I guess I'm wondering how the County would monitor that. I guess my -- I understand where the intention is coming from with, you know, in case someone has, you know, an accessory dwelling and their main house, and they want the flexibility to be able to rent that out. But I guess I'm concerned about, you know, people who aren't here all the time, you know, who maybe have a couple of different, you know, properties within their plot and then, you know, they're here like two months out of the year, but they're renting the rest. Like, I guess I'm just wondering how the long term residency will be monitored.

Ms. McLean: It's really monitored as part of our short-term rental home enforcement. And we rely mostly on internet ads for that or complaints. And so if, if someone is essentially getting away with it, then we would not have a way of monitoring it. But if we have heard legitimately of situation where someone executes a six month lease or a one year lease, and then their circumstances change, and they have to move to the mainland or something like that after four months. Well, we're not going to cite them for that because the intent was to be compliant and to live there long-term. But otherwise we don't, you know, we don't go around and ask to see people's leases unless we get a complaint or we have reason to believe that a violation could be occurring. Then we ask for evidence to demonstrate that there isn't a violation and a lease could be one of those things.

Ms. Preza: Commissioners, do you have questions now that we've been talking for a little bit, or comments?

Ms. Kaye: Yeah I do, Shelly. I had a similar question. I was trying to picture how this all works. So if I am a property owner and I owned another property within 30 miles, and it's got an accessory dwelling, then I could rent under, the way this is set up, I could rent one of the properties in six month increments and it would be perfectly legal. And the other one I could operate as a short-term rental. I just couldn't operate anything as a B&B because I don't live on the property. Is that, is that right?

Ms. McLean: All of those things are correct, yes, Commissioner Kaye.

Ms. Kaye: Okay.

Ms. Preza: Any other questions Commissioners, or comments or --?

Ms. Kaye: Okay, if nobody else is going to go, I'm going to ask about, under 19.65, the benefits, I think adding the benefits with the short-term rental home would bring is great. And justifications and reasons for applying for it are great. But how the property would be used if the permit is not granted I don't get that. I don't, (a), understand the problem you're trying to solve there, and (b), why it's anybody's business.

Ms. McLean: Thanks. That's a great question. Because we will often hear from applicants that, well, if I don't get the permit, then the property is just going to be vacant. It's my second home, and I use it once a year, and it's just going to be vacant if I don't, if I don't get the permit. Versus someone who says, well, I can't afford the mortgage, and so if I don't get the permit, then I may have to sell it. And so it's just trying to get more of an understanding of the applicant's intention and, you know, what they, what they intend to do with the property whether or not they get the permit. So seeing what the flip side would be if the permit gets denied. That information might not be all that useful to the Planning Department if it's a permit that the Planning Department can approve. But it would be very useful information if that permit has to be reviewed by a planning commission because that tends to be the questions that applicants get asked. Well if we don't issue, if we don't approve this permit, what would you do with the property. And so it's just asking them to provide that information up front so that decision makers have a fuller picture.

Ms. Preza: Thank you Michele. And I was just going to chime in too. I feel like, at least for the Lanai Planning Commission in recent years, that is a question that has come up for different permit applicants, so maybe it would be good to just give them a heads up that, you know, especially smaller communities that might be something the community commission cares about. So thank you for your answer on that.

I had a question about so the mailing to physical addresses. In our proposed -- I know this separate -- but like in our proposed changes we had said something about, like, I don't know if we had actually said mail by like certified mail. But because we don't have mail boxes, you know, at our physical addresses here on Lanai, if there's a way to kind of make room to make sure that that, those items, envelopes, mail, whatever, gets to the actual residences. If there's a way to include wordage for that.

Ms. Takakura: If I may Chair?

Ms. Preza: Yes Jacky.

Ms. Takakura: Thank you for the question. So, yeah, we had that conversation. For Lanai, we had the special language that was proposed by the Lanai Planning Commission and that

would remain because I know the situation there is a little bit different. So you would still be having that delivery the way you folks wanted it. I can't remember . . . (inaudible) . . . Yeah, we're keeping the unique language for Lanai delivery option.

Ms. Preza: Oh, so, but can that be included in these revisions as well potentially?

Ms. Takakura: Sure.

Ms. Preza: Okay. Thank you. I also --. Sorry, I --. Does anyone have -- I have one more question if that's okay with other Commissioners. I was interested by the slide that where the revision was saying like one permit per applicant. And maybe Jacky or Michele you can clarify the intention with that. That was so that one applicant doesn't try to have multiple, like, financial interest in properties in our County, correct? And sorry, just as a follow up I asked that because I don't know -- and this might be too complicated to get into -- but I'm just thinking back to permits from a couple of years ago or last year or something where there was a husband and wife. And the husband applied for a permit for one property and then the wife applied for another, and I was just wondering if you folks had thought about that. And if that's okay or if that's something that you're trying to avoid as speculation. Yeah, sorry, any comment on that.

Ms. McLean: Yeah, well right now the code allows someone to have more than one permit if the value of the property is above a certain amount. I can't remember what the valuation was. Jacky might be able to jump in and say, but it's like millions of dollars. What is it Jacky?

Ms. Takakura: Sorry about that. \$3.2 million or higher.

Ms. McLean: So that's what the code says now, and that it just seemed -- it didn't seem fair to single out those high end properties to be, for owners of those high end properties to have more than one permit just because the properties are higher end. Now granted those higher end properties aren't as assessable to as many people as regular every day properties. But there just didn't seem to be a basis to allow someone to have more than one, one permit. And we do come across all kinds of ways for people to figure out how to, how to get their permits in the situation that you described where the husband gets one, the wife gets another. We didn't go so far as to propose a way to curve that so that, that possibility still exists. But, you know, little by little we're trying to make improvements.

Ms. Preza: Thank you Michele. And sorry, I just bring that up because it seems like, you know, you folks have worked on these amendments, and maybe just, you know, while they're going to -- if they end up going to the County Council maybe, like, thinking about incorporating some aspect to curb what we just -- the situation we just talked about it. Because that seems like a loop hole to me that, you know, people have tried, and so just something maybe to think about.

Ms. McLean: Sure and that can be among your recommendations, you know, that you want to add that if you think that's something you want to add, then that can be a part of your recommendation. Certainly.

Ms. Preza: Thank you. Commissioners, what do you think about that? Because I think that situation before that kind of bothered me a little that, you know, it seems, especially in a small community like ours that people were trying to, you know, say oh we're separate, but they're, they're both trying to STRH's with their different properties. So I'm not sure if you folks had feelings about that or if you want to incorporate some kind of recommendation with that in mind or if that's just something we should save for a later date.

Ms. Kaye: That, Shelly -- this is Sally -- I think that's a really interesting. I'm not sure what the language would be. I guess you're looking at 19.65A.8C, the owner cannot have financial interest in another B&B or short-term rental. So, if a husband and wife owns houses separate from each other but they're still married, then, if I'm thinking the way you're, where you're going with this, they essentially do have a financial interest. So, I'm not sure -- if that's strictly construed, then that would cover your concern, would it not?

Ms. Preza: It think it would. Sorry, can you say again what section of STRH that was in?

Ms. Kaye: I'm just looking at the slides that Jacky gave us. It was under the 19.65.050.A.8C. These aren't, the pages aren't numbered, so I'm sorry I don't know.

Ms. Preza: It's okay. Sorry I'm just going to take a second to locate that.

Ms. Kaye: While you're doing that can I then just do a follow up question with you, Michele, on the section I've asked you about the justification. Just as a clarification if someone say "I don't know" or "I don't want to answer that" is that a deal breaker? Would that be considered an incomplete application from your end?

Ms. McLean: As far as the application being complete, if they answered the question then that would be satisfactory. If that application has to go to a commission, then it would be up to the commission to decide if they have enough information to act on the permit. But right now for short-term rental homes there's a five-year ownership requirement. So I would think that they would have some idea of what they would do with the property since they would have owned it already for at least five years. So it would be surprising if they said I don't know, but they certainly could, you know, that's a fair answer to a question. But that might not work in their favor if they had to come to this commission for a, for approval.

Ms. Kaye: Okay. Thank you.

Ms. Preza: Thank you Sally, I found the part on the slide where it says that. Michele, would that, do you think that would cover my concern, financial interest?

Ms. McLean: You know it seems like it would. I would have to -- I would want to check back with staff though because I believe we did have a situation where what you described happened where the husband got one permit, the wife got another, and so I have to find out how that happened. Maybe this language didn't exist at the time. Or I guess it's possible for a husband to have a property solely in his name, and a wife to have a property solely in her name, and so it would be hard for us to connect the dots if we didn't know they were married. So it seems like it would, and thank you Commissioner Kaye for pointing that out. It seems like it would, but I'd have to figure out how that's happened in the past and if we need to elaborate on that some more then we can.

Ms. Preza: Thank you. I don't feel like we need to make like an amendment or anything, propose any amendments, but maybe just something for you to take back to your staff as a point of concern for us. Commissioners, do you have other comments or questions, or does anyone feel strongly about making a motion one way or the other? Sherry, hi.

Ms. Menze: Hi. We did have that situation on Lanai where a guy wanted to get a permit and he was going to get one and his wife was going to get another one. But it turned out for other reasons he was denied that permit.

Ms. Preza: Right. I just -- I think it was just a strange situation so maybe just for, you know, the County's staff to think about like how to deal with those things when they do come up. But thank you. I'm glad you remembered too. I'm glad I wasn't the only one who, you know, thinking about that.

Ms. Menze: No, I totally remembered that guy.

Ms. Preza: Commissioners, do you have other?

Ms. Trevino: I'd like to share just, I guess, I understand the reasoning behind them creating this. I think my concern is the -- how would I say it? You know, the way in which someone finds out that a home isn't being rented for more than short-term is as she expressed earlier through reports from other people and whatnot. And I'm also --. You know, so I'm just concerned because it would be fairly easy for somebody who has the monetary means to kind of manipulate something like this. And I just also wanted to ask the 180-days as far as does it need to be consecutive days or can a homeowner say, well, I'm there 30, 30, 30, 30 out of the year. You know, is there a consecutiveness to the 180-days or more for the long-term?

Ms. McLean: Thanks. That's another great question. The 180-days is for uses or occupancy other than the owner. So if it's the owner who rents it, then they rent it in January, they rent it in March, they rent it in September, that's short-term. Even if altogether it was 180-days in the course of the year, that's short-term if there are different people in between. But an owner

who owns the property they can come and go however they want to. We don't, we don't regulate how long the owner is there. So the owner can come and go however they wish.

Ms. Preza: I guess that's what I'm thinking. I thought the owners had to have long-term residence, substantial basis on the property to qualify for this. Is that not true?

Ms. McLean: The long-term residential basis could be the owner. Or, it could be a tenant that they rent to for long-term

Ms. Trevino: Okay, so that I guess -- maybe that's a clarification then. So the homeowner could come every other month, but as long as the homeowner is there some parts of the year, then they qualify.

Ms. McLean: Right. That means that the house that they occupy when they're there isn't rented out to anybody short-term. Nobody else uses it except for the owner.

Ms. Trevino: Right. I guess cause I'm trying to grasp the, you know, what we're trying to do here. Because it sounds like, you know, a lot of this has to do with trying to maintain community sense of neighborhood. However even if somebody rented every six months, they would be considered long-term. You could have two people, two parties moving in and out of a house every six months that would make that one long-term. Or just one party, I guess, if it's longer than six months, it would make that long-term. But then the short-term could keep going, the roll over, right, for the short-term rental. Or, again, an absent homeowner who just comes every so often. So that's concerning. I'm just voicing that as a board member for us to think about.

And the other thing that, I guess, I'm a little concerned about or like wondering is it could, a homeowner, who's is renting their place out long-term to, you know, to qualify to, you know, get the short-term rental. Like, I mean, I would hate for them to bully their long-term renter to saying, you know, you have to, you have to want this. Like, could that become an issue where somebody is renting long-term from the homeowner and doesn't want --? You know because we're saying the people are notified when this happens. Like I would hate for somebody to get evicted because they don't want that in their yard even though they don't own it. So I'm just -- I don't know what the repercussions of that is, but I'm just throwing that out there because I don't know if that would be a scenario that might come up. So those are just my concerns.

Ms. Preza: Thank you Chelsea. It's something to think about.

Ms. McLean: You could work for our enforcement staff, Commissioner. That's exactly the way their minds work. They come up with every scenario under the sun.

Ms. Preza: That's good though. But I'm also wondering, I guess, you know, I see the concern there too, but I'm also thinking, you know, I'm glad that this would, you know, if any STRH or

B&B would be granted it would hopefully be with the cap we proposed, you know, with our other revisions. And so hopefully our density regulations, everything would still be applicable. And I can't think of that may places in our town that even have accessory dwellings where this would make sense, but I think it's good to think about. Other Commissioners do you have thoughts or --? Comments or --. Our options are to recommend approval of these revisions, to recommend approval with amendments, to defer, or to reject these proposals.

I think we had --. You know I had talked about like asking the stipulation about being mailed to physical location to be included. I don't know if that needs to be written in or if, you know, you as the County, you folks would like to make sure it happens for Lanai because we don't have, you know, physical mail boxes in front of our home. I don't know if we have make -- do you think we should make an amendment of that, or just kind of making a note of it is okay.

Ms. McLean: I don't think you need to make an amendment, but it could be a part of your motion that if you do recommend approval of the bill that you would want to retain the notification that was put in the bill that specific to Lanai.

Ms. Preza: Thank you. Well Commissioners, how do you feel, what do you think? Are we thinking leaning towards approval, disapproval. Is there a certain phrasing that you think would be better if we amend it or --?

Ms. Kaye: I don't hear any amendments so I move that we, that we vote to recommend to County Council that they approve the bill for an ordinance amending the three chapters as presented by the Planning Department with the addition that the notification specific to Lanai be retained.

Ms. Preza: Thank you Sally. So we have a motion for approval. Is there any second?

Mr. Ornellas: I second.

Ms. Preza: That was John Ornellas. John seconded. Thank you. So if you wouldn't mind, I'm going to go through everyone. If you could just let know how you vote. So Natalie?

Ms. Ropa: Aye.

Ms. Preza: Thank you. Sherry.

Ms. Menze: Yes, aye.

Ms. Preza: John Delacruz?

Mr. Delacruz: Aye.

Ms. Preza: Thank you. Roxanne? Sorry, you were mute. Sorry, did you say, yes, Roxanne? Sorry, I can't hear you. Thumbs up. Can you hear us? Okay, that's a yes. Chelsea?

Ms. Trevino: Aye.

Ms. Preza: Thank you. Sally?

Ms. Kaye: Aye.

Ms. Preza: Thank you. Shirley?

Ms. Samonte: Aye.

Ms. Preza: John Ornellas?

Mr. Ornellas: Aye.

It was moved by Ms. Sally Kaye, seconded by Mr. John Ornellas, then unanimously

VOTED: to recommend to County Council to approve the bill for an ordinance amending the three chapters as presented by the Planning Department with the addition that the notification specific to Lanai be retained.

(Assenting: R. Catiel, J. Delacruz S. Kaye, S. Menze, J. Ornellas, S. Preza, N. Ropa, S. Samonte, C. Trevino)

Ms. Preza: Thank you. So I also vote yes so it passes unanimously. Thank you very much. And thank you Jacky and Michele for answering all of our questions.

Ms. McLean: Thank you Commissioners.

2. A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE RELATING TO CANOPY TOURS AND ZIPLINE OPERATIONS

MS. MICHELE COUTEAU MCLEAN, AICP, Planning Director, transmitting County Council Resolution 20-90 referring to the Lanai Planning Commission a Proposed Bill to Amend the Comprehensive Zoning Ordinance Relating to Canopy Tours and Zipline Operations.

MEMORANDUM

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/1127/Legislation---Proposed> and is summarized as follows:

Per Council Resolution No. 20-90, adopted on June 19, 2020, transmitting the proposed bill, the Council proposes to amend Chapter 19.30A and establish Chapter 19.97, Maui County Code, to require a Conditional Permit for canopy tour and zipline operations to enable the Council to evaluate the appropriateness of the uses in various zoning districts. (Jacky Takakura)

Ms. Preza: So we'll move on to Item B.2. which is a bill for an ordinance amending the comprehensive zoning ordinance relating to canopy tours and zipline operations. I do believe we have another presentation maybe from Jacky or --. Okay, great. So if anyone has just recently joined us on Bluejeans if you would like to testify on this agenda item if you could directly message Leilani and let her know that you would like to and then we'll call you after the presentation is over. Thank you. Sorry, go ahead Jacky when you're ready.

Ms. Takakura: Thank you Chair, Commission members. Again, this one is also short. So this one is regarding zipline and canopy tour operations. And so this came to us part of Resolution 20-90 from the Maui County Council. It's a bill for ordinance amending the Maui County Code relating to canopy tour and zipline operations.

So before we talk about the bill itself and the proposed changes, I just wanted to cover where are we right now, like, what is the status quo, what are we doing right now? And the County is allowed canopy tours and zipline operations.

Ms. Preza: Sorry Jacky to interrupt you. I think you meant to share your screen. Did you?

Ms. Takakura: So sorry. Yes.

Ms. Preza: Sorry, I just wanted to let you know. I didn't meant to interrupt, but just before you went any further.

Ms. Takakura: No, no, no. I'm so glad you did. Okay, thank you for your patience. So as I've said, this is about zipline and canopy tour operations.

Ms. Preza: Jacky, you're muted.

Ms. Takakura: Okay, now can you see the screen and you can hear me?

Ms. Preza: We can see the screen and we can hear you.

Ms. Takakura: Third time is a charm. Okay. So yeah, canopy tours and zipline operations have been allowed as accessory uses, usually when they're proposed as guided tours of an ongoing agricultural use. Over the years we've issued seven zipline approval letters, and the Lanai Planning Commission has approved one.

And why the proposed change? What has brought this about? It's because zipline can have potential impacts to neighbors, potential impacts to or compatibility with agriculture which is where they're typically located. It's an opportunity to review these operations for safety and any other concerns. And it also provides a cap of 15 to prevent saturation.

Ms. Preza: Jacky, you're muted again.

Ms. Takakura: Okay, so this is the list of the ziplines in Maui County. You can see there is one in Lanai. We have them all over. Some in Kula, Kaanapali, Lahaina, Waikapu which is Central Maui, Makawao, Haiku, and then as you know, the Lanai Adventure Park. Some have received approvals, but not all. I'm going to -- so this will --

Ms. Preza: Sorry, Jacky, you're muted again. I don't know what's happening.

Ms. Takakura: Oh yeah, okay. So you can hear me now?

Ms. Preza: Yes.

Ms. Takakura: Okay, so in case you lose me, this information is in the packet in the memo to commission as an attachment. Back in May, one of the planners did a lot of research and so this was pulled from there. And we can always come back to this slide if you have questions about particular properties. But you can see they're all over the place. Mostly agriculture zoning. The one in the bottom is the Lanai Adventure Park in Koele. And that one is on 30 acres, and that one received approval from last year.

As mentioned in the previous slide, you know, not all of them have approvals. You can see the ones kind in the middle that have italics on the side, Flying Hawaiian Zipline, there's no specific approval for that one. They're probably piggy backing on the one that's right above it, the Maui Zipline Company because it's on the same lot. Piihola Ranch also doesn't have an approval. And then the other two, Jungle Zipline and North Shore Zipline in Haiku are both going through the appeal process. The Jungle Zipline one we're working with Corporation Counsel about scheduling that with the Board of Variance and Appeals. And also same with the North Shore Zipline, we're working with Corporation Counsel to go before the BVA.

And like I mentioned, if we want to look at more specific details we can always come back to this slide. One thing that I put on here is the acres because the acres is going to -- it's part of the proposed bill, the size of the lot.

Ms. McLean: Jacky, you're muted again.

Ms. Takakura: Okay, and I'm not touching my --. Well, okay, thank you. So the County Council wants to create a new chapter with a maximum with of 15 conditional permits to be issued. Also make some revisions to the Ag District to make it clear that zipline and canopy tours are neither accessory uses nor special uses. Existing operations with approvals like we saw, the one have approvals from us or the Lanai Planning Commission, can continue. The ones that are on greater than 50 acres can continue as nonconforming use, and then the ones that are less than 50 acres must apply for a conditional permit.

Ms. Preza: Sorry, you're muted again. Oh, now you're good.

Ms. Takakura: I know. Now I know to look at that little icon. Okay, so in the memo to Commissions, I, you know, just like I made a mistake in the other bill, this one I have a mistake too so I'm very sorry. I included some proposed definitions that they were in previous versions of the bill, but they're no longer needed because they're not included here so please disregard those. Even the definition for zipline is already in the bill so we don't need to propose to revise that.

So this is the part that we're revising, we're proposing to revise. The Agricultural District, which is 19.30A, and then the chapter on Conditional Permit. For the Ag District we clarify the accessory uses excludes ziplines and canopy tours, but that they may be approved by Conditional Permit. Also, to clarify that special uses excludes rappelling, ziplines and canopy tours. And then for the chapter on Conditional Permits, 19.40, I put the language in there that the permits for ziplines and canopy tours may be issued but not if they're near residential, apartment, rural, or near farm or farm labor dwellings. And also in the memo to Commissions you can see we have some specific conditions for operations including that they be limited to hours of 8:00 a.m. to 5:00 p.m., no intoxicating liquor within -- on or within 1,000 feet, and that the operator has proof insurance, inspection report and maintenance records, and acknowledgement of risk and rules of conduct. So that's what we're proposing is to have it in the Conditional Permit chapter.

So that's basically it. It's kind of just a rearrangement of what is in the resolution to put in it into these two chapters and not creating that new 19.97.

Ms. Preza: Thank you Jacky.

Ms. Takakura: So just like with the other one you have some options. You can recommend approval. You can recommend with some amendments like what we have here, or you can deny, or you can defer if you need further information. Okay, I'm going to stop screen sharing and that's it.

Ms. Preza: Thank you Jacky. So sorry, when you said, when you had the bold for recommend with amendments, it's with the amendments that you just presented to us, correct?

Ms. Takakura: Yes, please.

Ms. Preza: Okay, thank you.

Ms. Takakura: But you're welcome to make proposed changes if you would like to. Sorry.

Ms. Preza: Okay, thank you. So Commissioners while you think about that, I'll ask Leilani if anyone has signed up with you to testify.

Ms. Ramoran-Quemado: Thank you Chair. No one has signed up to testify.

Ms. Preza: Okay, great. I mean just chance if anyone who is calling in via Bluejeans would like to testify please unmute and let me know. Okay if not, please make sure that you're muted if you are joining us on Bluejeans. And for those of you who are calling in would anyone like to testify? Okay, if not then I'll close public testimony. So Commissioners do you have questions regarding what was just presented to us? Feels pretty straight forward to me. Oh, yes, Sally.

Ms. Kaye: I want to make sure I understand this correctly. The Council wants to do an entirely new chapter, but you guys are recommending that you just make these few changes to existing parts of the code, and that would be sufficient. Is that the bottom line here?

Ms. McLean: Yeah, thank you Commissioner. That summarizes it. Rather than creating a new chapter, put the same language and restrictions into two other sections of the code. It just seems a little bit more clean to do it that way.

Ms. Kaye: Okay so then I don't --. That was one of the questions I had. If, if that route is followed where is the -- doesn't that eliminate the cap of 15. Where does that still appear?

Ms. McLean: That would be in Chapter 19.40 in the Conditional Permit Chapter to put the, put the cap in there.

Ms. Kaye: Okay. So it's already in there is what you're saying because I don't see it in, in what you put . . .(inaudible) . . .

Ms. Preza: Go ahead Jacky.

Ms. Takakura: I apologize. I'm looking at the memo to Commissions, and I agree with commission member. I don't see it here, but this would be included and so we can make sure it's included in the 19.40.

Ms. Kaye: Okay, and then, and then also --

Ms. Preza: . . . (Inaudible) . . . Never mind. Sorry. Go on Sally.

Ms. Kaye: Okay so the 15 is in there somewhere or you're going to make sure it's in there. But what about the, the new chapter that was proposed by Council also requires a Special Use Permit under Chapter 205. That goes away too?

Ms. Preza: Sorry, I'm not sure if Jacky you could answer or Michele. I'm sorry, I think you're muted.

Ms. Takakura: We would revise our administrative rules for the agricultural district so that it's in all in parallel and those requirements are in there.

Ms. Kaye: I'm sorry, I don't understand the answer. So the Special Use Permit under -- the State Special Use Permit would still be required or not.

Ms. McLean: Yes, the State Special Permit would still be required. That needs to address the property that's in the State Agricultural District. And then the Conditional Permit addresses the use under County Zoning. So permits at two levels, State and County, are both needed.

Ms. Kaye: Okay. Thank you. And the only other question I have is does any of this impact the Special Use Permit that the zipline here on Lanai already has?

Ms. McLean: Under the Council's bill that would be considered a nonconforming use and would be allowed to operate. But if it operates on less than 50 acres, then it would need a Conditional Permit. With the Department's proposed revisions then that would remain as is and wouldn't be affected.

Ms. Preza: Thank you for answering our questions. Commissioners, do you have other questions or comments? Sorry, also Jacky, you know the slide that you showed us with the acreage. So that wasn't included in our what was sent to us right, or was it? I don't see it.

Ms. Menze: I didn't see that on our handout either.

Mr. Delacruz: It came in today's mail.

Ms. Menze: Right, but it doesn't have the acreage on it.

Ms. Takakura: I added recently. Sorry about that Chair.

Ms. Preza: Okay.

Ms. Takakura: So I will post that online.

Ms. Preza: Okay. Do you know how many acres the one on Lanai is? Sorry, just going back to the question.

Ms. Takakura: It's 30 acres. Three, zero.

Ms. Preza: Okay. Commissioners, do you have other thoughts or comments about this?

Ms. Menze: Could Jacky show that slide one more time just the acreage?

Ms. Takakura: I'll do that right now if that's okay Chair.

Ms. Preza: Thank you Jacky.

Ms. Menze: Thank you.

Ms. Preza: Thank you. Yeah, I think it's just that column that we're missing. But Jacky, you'll upload the updated version onto the website for others to see as well? Thank you.

Ms. Takakura: I guess you can let me know . . . (inaudible) . . .

Ms. Preza: Sherry, do you want to take a screen shot of it maybe or is that possible? Sorry Sherry if you're talking you're on mute.

Ms. Menze: Sorry, thank you so much. Perfect idea.

Ms. Preza: Thank you.

Ms. Menze: Thank you for letting me see that again.

Ms. Preza: So is it okay if she takes it away now?

Ms. Menze: Yes. Thank you Jacky.

Ms. Preza: Thank you. So Commissioners, we have the same options on the table. Jacky is recommending or the County is recommending that we approve with amendments. So the amendments would be the changes that she had just presented to us. Does anyone like to make a motion or should there be further discussion? Hi Sherry, go ahead.

Ms. Menze: I'll make a motion to recommend that Council approves the bill with amendments making sure that the language in there has the cap of 15.

Ms. Preza: Okay. Well, I think that the cap of 15 is going to be placed in a different section, so I'm not sure if we need to say that.

Ms. Menze: Okay, never mind. Okay.

Ms. Preza: Sorry Richelle you can clarify that if you'd like.

Ms. Richelle Thomson: Chair, this is Richelle. Commissioner Menze, I just wanted to make sure that what your motion is is that you're requesting that the Council adopts the Planning Department's recommendations and incorporate them. So you're basically recommending that they go the Planning Department's not the Council's version. Is that correct?

Ms. Menze: Recommend that the Council approve the bill with amendments.

Ms. Preza: So she's asking for which amendment is the Planning Department's amendment correct.

Ms. Menze: Yes.

Ms. Preza: Okay. So that's the motion. Would anyone like to --? Richelle, is that enough clarification?

Ms. Thomson: Yes it is. Thanks.

Ms. Preza: Okay, thank you. Would anyone like to second?

Ms. Samonte: Second.

Ms. Preza: Okay, thank you. So I'm going to go through again for asking your vote. So Natalie.

Ms. Ropa: Aye.

Ms. Preza: Thank you. Sherry Menze?

Ms. Menze: Aye.

Ms. Preza: Thank you. Roxanne?

Ms. Catiel: Aye.

Ms. Preza: Shirley Samonte?

Ms. Samonte: Aye.

Ms. Preza: Thank you. John Delacruz?

Mr. Delacruz: Aye.

Ms. Preza: Sally Kaye?

Ms. Kaye: Aye.

Ms. Preza: Chelsea?

Ms. Trevino: Aye.

Ms. Preza: John Ornellas?

Mr. Ornellas: Aye.

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

VOTED: to request that the County Council adopts the bill with the amendments as presented by the Planning Department.

(Assenting: R. Catiel, J. Delacruz S. Kaye, S. Menze, J. Ornellas, S. Preza, N. Ropa, S. Samonte, C. Trevino)

Ms. Preza: And I also vote yes, so that passes unanimously. Thank you all very much. Before we move on I would like to take a short break, so maybe five minutes we can return at 6:15 p.m. That's okay with everyone? Okay, see you all in five. Thank you.

(The Lanai Planning Commission recessed at 6:09 p.m. and reconvened at 6:15 p.m.)

C. COMMUNICATIONS

- 1. August 7, 2020 Q1 through Q2 2020 Semi-Annual Report (Condition 14) submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017-001, 002, 003, 004, 005 and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001)**

The Report is provided to the Lanai Planning Commission for its review.

- 2. August 7, 2020 Second quarter of 2020 Report from mid-February through mid-June (Condition 15) water usage reports for the project site submitted by MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI for Project District Phase II**

Application for the Four Seasons Resort, Lanai, Koele Proposed Improvements (PH2 2017/0001).

The Report is provided to the Lanai Planning Commission for its review.

Ms. Preza: Thank you. So as everyone keeps joining, if anyone has recently joined us please make sure that if you're not a Commission Member that your video and audio are muted. That would be really helpful, and welcome back. So next on the agenda is C, Communications. Both one and two are being transmitted from Ms. Keiki-Pua Dancil. They're semi-annual reports and second quarter report . . . (inaudible) . . . the Q1 through Q2 2020 semi-annual report. I think Keiki-Pua if you would like to unmute your video and audio. We received the documents in the mail, but I'm not sure if you have anything to add.

Ms. Keiki-Pua Dancil: No I don't so I think I'll get started if that's okay.

Ms. Preza: Sure. You can feel free to unmute your video if you would like to.

Ms. Dancil: Yeah. Aloha Chair Preza, Vice-Chair Trevino, members of the Commission, and Planning Department, and the public that has joined us this evening. To preserve band width I'm calling in from home so I won't be turning on my video. This should allow for more audio clarity. Joy Gannon is also here from the Lanai Water Company and for additional questions.

On behalf of Pulama of Lanai, I'd like to present two reports as Chair Preza mentioned. First item, agenda Item C.1. is associated with a Special Management Area Use Permit and Project District Phase Two five-year time extension for residential and multi-family development in Manele. In particular, condition 14, which is a semi-annual report covering Q1 and Q2 of calendar year 2020 regarding the irrigation demand associated with the residential and multi-family development at Manele. This is a compliance report that we have submitted to the Planning Department and the Lanai Planning Commission. In Exhibit A represents the data in tabular and graphical manner. In the red boxes in the tables presented is the current report recording period. I'd like to point out an error in the tables on pages 1 through 4. The date for Q1 2020 should be December 15, 2019, not 2020 as displayed. We have conveyed this to the Planning Department in an email and included a correct report. In our next report we will note this correction as a foot note for the record.

Agenda Item C.2. which is associated with our Project District Phase Two application for the Four Seasons Koele, improvements at Koele, in particular condition 15 which is a report covering Q2 of calendar year 2020 from mid-February through mid-June. Again Exhibit A represents the data in a tabular and graphical manner. The red boxes in the tables represent the current reporting period. I'd like to also point out an error on page 1. The date for Q1 2020 should be December 15, 2019, not 2020 as displayed. We've conveyed this to the Planning Department in an email, again, and made the corrections. We will report this as a foot note for the record in our next report.

Ms. Preza: Thank you Keiki-Pua. Commissioners, do you have any questions about the reports that were transmitted? Keiki-Pua is here to answer questions, or I believe also Joy Gannon is. Oh, sorry, before we get to Commission questions, I believe I will open public testimony. Apologizes. Leilani, has anyone signed up for public testimony?

Ms. Ramoran-Quemado: Thank you Chair. No one has signed up to provide testimony.

Ms. Preza: Thank you. Is anyone who has called in via phone wanting to provide testimony at this time? Okay. If not, then I'll close public testimony now. And Commissioners, if you have questions about the reports that were transmitted feel free to ask. Okay, there were no, no questions or --? Okay, well, if there are no question then we'll move on. Oh, sorry, is someone trying to talk? Okay, if not, if there's no questions, then thank you so much Keiki-Pua and Joy for being available for questions, and thank you so much for always following up with the reports for us.

D. DIRECTOR'S REPORT

1. Information requested of the Department by the Commission at the Lanai Planning Commission July 15, 2020 meeting (*Deferred from the August 19, 2020 meeting*):

a. SM1 1995-0015 Condition #14: Context of the condition.

Ms. Preza: Great. So next is Item D.1. which is the Director's Report. So this was information requested of the Department by the Commission at the Lanai Planning Commission meeting July 15, 2020, and it was deferred at our last meeting, regarding (a), SM1 1995-0015 condition #14, the context of the condition, and then (b), regarding Kaluakoi Estates. And I believe, Michele you'll be answering questions or, you know, sharing information about this with us?

Ms. McLean: Yes. Thank you Chair. Deputy Director Jordan Hart put some information together for me because I think he was the one who first heard from the Commission that you were interested in this information.

The first one, SM1 1995-0015, the condition in question originated in 1995 as condition 15, and it said simply that the applicant shall continue to develop other non-portable water sources for irrigation purposes. Then in 2003, there was an adjustment to the conditions, and that condition, the same wording, became condition 14. Then 2007, the condition was expanded. It went from -- the expanded language which is still in effect today says that the applicant shall continue to develop other non-portable water sources for irrigation purposes. And then the new language was added, in addition to wells 1, 9, and 14, and report on semi-annual basis on the projected irrigation demand associated with the proposed development and how it is being met for each year of the extension. The context of that, Jordan reviewed

the Planning Commission minutes from September and November 2007, and the applicant's representative confirmed that existing water source was not sufficient for non-portable purposes for the full build out of the project beyond the source provided by well 14. And the pursuit of additional source, well 15 was developed but online, and that one of the existing wells would also need to be retired. And so Jordan wrote up a conclusion that in response to discussions with the applicant in September and November of 2007 regarding the inadequacy of existing source for full build out the uncertainty of water source. A condition was formulated by the Planning Commission to clarify specifically how non-portable water would be provided for the full build out of the project. So that was Jordan's write up to me. He had some comments on the reports, but I can provide that if you have questions, but that was his write up for the context of the condition.

Ms. Preza: Thank you. Do you think you would be able or willing to share those notes with us, like, via e-mail or something?

Ms. McLean: Sure. I don't see why not.

Ms. Preza: Okay. Thank you so much. Sorry, I was trying to take notes as you were writing, but I think it would be better. I think I may have made some mistakes as I was writing so thank you very much. Commissioners, do you have questions about that? This was in response to our July meeting when we, you know, had asked for additional information regarding, yeah, the context of how it came about. If not, Michele, are you going to share about Item (b) as well?

**b. Kaluakoi Estates (SM1 2020-0002):
Brief description of proposed action.**

Ms. McLean: Yes. The Kaluakoi Estates project -- actually the notation on the agenda there's a slight typo. The permit number is actually SM1 2020 dash 0006, not 0002. It's comprised of five lots that all together are just over ten acres. And the proposed development is five single-family homes with carports, utility buildings, a game room, a home theater building, two pools and a koi pond among other improvements. And this is in the Koele Project District in the residential sub-district and so it will also require a Phase Two approval in addition to the SMA Major Permit. And that's all I have for that.

Ms. Preza: Thank you . . . (inaudible) . . .

Ms. Kaye: I think you said Koele. I think you meant Manele.

Ms. McLean: Yes, you are absolutely right. Sorry about that.

Ms. Preza: Thank you. Commissioners, do you have further questions about that? If not, then thank you so much Michele for following up with that information. We'll move on to Item D.2. which reports from Commissioners who attended the virtual Native Hawaiian Law Training

held on August 13th and 14th. If you would like to share on any thought on how that went. Can I just ask who did go or attend the virtual?

2. Reports from Commissioner(s) who attended the virtual Native Hawaiian Law Training held on August 13 and 14, 2020. (Deferred from the August 19, 2020 meeting.)

Ms. Kaye: I did.

Ms. Preza: Okay. Do you have anything you want to share?

Ms. Kaye: Am I the only one? I didn't see anybody else on the . . . (inaudible) . . . Okay, yeah, no I would, I would like to share. I went to this a couple of years ago. Sherry and Roxanne actually were going to the same training. I was over because my husband had just been appointed to OEQC so I tagged along. This presentation was an update. It was functionally the same, updated case law, etcetera, but sitting by yourself and listening to it was so much more impactful than being in a room with 100 other people getting up and down. I really, really learned a lot. And I think the takeaway for me remains the same, and that is our public trust responsibility to always make sure that native Hawaiian cultural rights are considered. And for me that includes water which incidentally was the only reason I voted against the amphitheater because I didn't think we upheld our responsibility to discuss our public trust responsibility in that regard. But if anybody has a chance to attend this, the second time was a charm. It was great.

Ms. Preza: Thank you Sally for sharing. Yeah, that must have been really interesting that it was virtual, but I can see how it could make things a little more focused. You can kind of concentrate. Commissioners, do you have questions for Sally who attended? I know some of us have attended like, you know, in previous years and stuff. It is, it is mandatory for Commissioners to attend at some point. So I agree that it's very important for all of us to know. Great. Thank you Sally for sharing.

We'll move on to item D.3. which is --. Oh, sorry, did someone, is someone trying to talk? Okay, sorry, I thought I heard something. Item D.3. is State Office of Planning and American Planning Association, Hawaii Chapter, hosting the 2020 Hawaii Congress of Planning Officials Conference a virtual lunch time series October 19th to 23rd, from 11 a.m. to 1:30 p.m. each day. I'm not sure if anyone is presenting on the matter or am I just supposed to read that is happening. Or Michele? Okay.

3. State Office of Planning and American Planning Association (Hawaii Chapter) hosting the 2020 Hawaii Congress of Planning Officials Conference, a virtual lunchtime series, October 19-23, 2020, from 11:30 a.m. – 1:30 p.m. each day. (Deferred from the August 19, 2020 meeting.)

Ms. McLean: Chair, I'll just mention this is the annual statewide planning conference. Maui County hosted last year. It was on the west side of Maui, at the Sheraton. And usually we have a limited budget to send staff and planning commissioners to the conference because it involves usually air travel, rent a cars, hotels, the registration is usually a few hundred dollar per person, so we usually are only able to send a limited number of commissioners and staff. But this year it's only \$50 a person, and so we're opening it up to any commissioner or staff person who wants to attend. And then as the agenda says it's just five straight days for two hours each day at lunch time to attend the virtual conference. So anyone who is interested in attending you can coordinate through Leilani and we can get you registered, and it will be online. And they're working really hard to make it fun and interactive. It's going to be a challenge for them, but it would be time well spent if you're able to attend. Thank you Chair.

Ms. Preza: Thank you Michele. Commissioners, do you have any questions about that?

Ms. Kaye: Is there going to be an agenda anytime soon to look at?

Ms. McLean: I'm sure there will be. They just opened up registration so usually around the time when they open up for registration they have the sessions laid out. So we'll be sure to provide that to everyone as soon as it's available.

4. Open Lanai Applications Report as distributed by the Planning Department with the September 16, 2020 agenda.

Ms. Preza: Thank you Michele. Any other questions about this? Okay, if not, Item D.4. is open application report which is provided to us every meeting, but if there's any comment or question on that. If not, then we will move on to one of the last things which is agenda items for October 21. I'm not sure if Leilani or Michele --

Ms. Kaye: Shelly? Shelly?

Ms. Preza: Yes?

Ms. Kaye: I'm sorry I do have some questions on the open projects report. And that would be what is, what is the Manele Resort multi-family, Jordan request for review, critical item?

Ms. McLean: That is an excellent question. I'll have to find out. It's obviously something -- so when you see under the column that says permit number there are all those codes. SMX is an SMA assessment. CTB is country town business. Those are under RFC, which is a request for comment. And that's usually when we have to do research on something or we get an inquiry. So this is something that Jordan initiated, but I, I simply don't know what he was asking about. So I can find out about that and let you know.

Ms. Kaye: Thank you.

5. Agenda Items for the October 21, 2020 meeting.

Ms. Preza: Thank you Michele. Any other questions? Okay, if not then I'm not sure if Michele or Leilani or if anyone knows things that will be on the October agenda at this point or --?

Ms. Ramoran-Quemado: There's going to be a public hearing. That's actually the Kaluakoi Estates. You folks are going to review for the Special Management Area and the Project District. So it's going to be the October 21st agenda.

Ms. Preza: Thank you Leilani. Great. But as always the agenda will go out prior to our next meeting, so you'll have post write up of what we're going to be discussing.

And with that, our next regular meeting date is October 21st, 2020. And I'll adjourn our meeting at 6:32 p.m. Great. Thank you all so much for coming. I hope you're all doing well, and staying safe, and, you know, staying sane. Thank you all for tuning in. Thank you Commissioners for being here.

E. NEXT REGULAR MEETING DATE: October 21, 2020

F. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at 6:32 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Roxanne Catiel
John Delacruz
Sally Kaye
Sherry Menze
John Ornellas
Shelly Preza, Chair

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Natalie Ropa
Shirley Samonte
Chelsea Trevino, Vice-Chair

OTHERS:

Michele McLean, AICP, Planning Director
Jacky Takakura, Administrative Planning Officer
Richelle Thomson, First Deputy, Corporation Counsel