

**LANA‘I PLANNING COMMISSION
REGULAR MEETING
JULY 21, 2021**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Sally Kaye, Vice-Chair, at approximately 5:00 p.m., Wednesday, July 21, 2021, online via BlueJeans Meeting No. **147 103 897**.

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

Ms. Sally Kaye: Welcome everyone to the July 21st, 2021 Lanai Planning Commission meeting. I will be sitting in as Chair tonight since Shelly Preza is unable to attend.

First, I'd ask everyone who's not a Commissioner to please mute your audio and video until such time you're called to testify. And then we'll do a quorum roll call for the record. We have John Delacruz, if you would just say you're here.

Mr. John Delacruz: Here.

Ms. Kaye: Shirley Samonte?

Ms. Shirley Samonte: Here.

Ms. Kaye: Sherry Menze?

Ms. Sherry Menze: Here.

Ms. Kaye: Okay. Lisa Grove?

Ms. Grove: Here.

Ms. Kaye: Okay. And I'm here, so we're waiting for Chelsea. I'm sure she'll let us know when she's here.

Okay, so on to protocol. Public testimony will be taken when each agenda item is discussed and will be limited to three minutes as timed by our Commission Secretary, Leilani Ramoran-Quemado. If you would like to testify on an agenda item, please sign up directly with Leilani using the chat function. Provide your name and the item you wish to be heard on. Commissioners will not be using the chat function, and everyone else, please again, mute your audio and video until you testify. After those who wish to testify via BlueJeans have been heard we'll hear from anyone who signed up and wishes to testify via phone.

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

1. A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.12, MAUI COUNTY CODE, RELATING TO TRANSIENT REGISTRATION NUMBERS IN THE APARTMENT DISTRICTS

Ms. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution 21-55 referring to the three Planning Commissions a proposed bill to amend Maui County Code Chapter 19.12, Apartment Districts, to establish transient registration numbers. Some minor revisions and updates are also proposed. (J. Takakura)

The entire text of the proposed bill for ordinance is available at <https://www.mauicounty.gov/DocumentCenter/View/126257/Draft-Bill-for-Ordinance-Relating-to-Chapter-1912-Apartment-District-Vacation-Rentals?bidId=>

Ms. Kaye: So, first item on the agenda is Item B.1., a bill for an ordinance amending Chapter 19.12, Maui County Code. John, are you muted?

Mr. Delacruz: I'm here. Can you hear me?

Ms. Kaye: Yeah. Can you mute your...your audio? I'm getting some background. Okay, thank you. Chapter 19.12 of Maui County Code relating to transient registration numbers in the Apartment District. The County Council by resolution back in March asked three planning commissions to review the proposed amendments to Chapter 19.12. And the Planning Department has suggested additional changes. So we'll start with a presentation by the Planning Department, then public testimony if any, then Commissioners can ask questions of the Department.

The options on this item are, first, to recommend approval of the proposed bill as submitted by County Council, recommend approval with amendments suggested by the Planning Department and any others Commissioners would want to make. Three, recommend denial. And four, defer action if there's specific additional information Commissioners need. So next would be the Planning Department's presentation. I, I don't know if that's Jacky doing it, but I wonder, Jacky, if you do it, if you could as part of your presentation, indicate which properties on Lanai this might apply to, and tell us what did the Maui Planning Commission and Molokai Commission do with this. Thanks.

Ms. Jacky Takakura: Okay, good evening Lanai Planning Commission. Hello from Wailuku. Okay, so I do have a short power point presentation. It's real short. But, yeah, I'd like to just mention that I checked the digital zoning map for the Island of Lanai, and I didn't see any apartment district zoning for the Island of Lanai. There's a lot in South Maui and West Maui. And there's a couple of properties on Molokai, but there aren't any on the island.

So I'm going to start sharing, and then at the end I'll talk about what the other Commissions have...said because this bill has gone to Maui and Molokai Planning Commissions. So I'm going to share screen now. And can you just give me a thumbs up if you can see that screen? It just has some words on it. Okay, thank you.

Okay, so as was mentioned this is regarding Chapter 19.12 of the Maui County Code. We received Resolution 21-66 from the County Council so that is what we're presenting to you and we do have a few proposed revisions. Okay, so this first one it's a lot of words, but it's just straight pulled out of Maui County Code, Chapter 19.12, the current language of what, what the criteria is if you want to have a transient vacation rental in the Apartment District. Apartment Zoning District is really intended for residential use. It's a little bit higher density than single-family dwelling. It's a good transition from a more urban area, and it's also, like I mentioned, you know, more like a multi-family. But it is intended for residential. However, there is this exception for vacation rentals, and you might be familiar with this because we have talked about this in the past not that long ago because we did update this last year.

The properties can only do vacation rentals if they meet these three criteria. And the first one is that they had to have the building permit, or SMA Use Permit, or be in existence prior to April 20th, 1989. They had to have transient vacation rental use in any unit in the structure prior to last September as determined by real property tax class or payment of GE tax and TAT tax. And this second item here was kind of added as a way to close a loophole because we didn't want any properties that had never conducted vacation rental use to convert to vacation rental use. We wanted to keep as long-term residential properties. So this was added last year saying if you didn't start, you can't start. So that's what that second item you see in there is.

The one on the bottom it's just that if the building or structure is reconstructed, we don't want the vacation rental use to expand. If they're allowed to conduct vacation rental use, they need to keep it to whatever it was back in 1989, not an expanded use. And that's kind of typical when you have a non-conforming use, they're allowed to continue, but they can't expand. So that's what that third item is for. Like I mentioned, this is the existing language in the Maui County Code.

So what the County Council is proposing in their resolution is to assign transient registration numbers that the operator would have to submit an applicant form for, and that, the Planning Director would have to verify the criteria. They would have to have their transient accommodation tax license and the GE tax license. Any advertising that they do online would have include the registration number. If the, if there's a zoning violation that would lead to suspension of registration. And also if they are delinquent on their State or County taxes, or, and their TAT or GET taxes, then the registration would be terminated. So what you're seeing on this screen is just a summary of what's in the resolution from the County Council.

This next slide here is what the Department is proposing. Similar, but just a few differences. What we're proposing is that the unit or the property owner holds a valid GET and TAT tax

licenses, and that the taxes are paid in full and the licenses are kept current. In terms of real property tax, the unit or the property would be subject to short-term rental real property tax class. And any advertisements for vacation rental use would have to include the tax map key number. And if it's a CPR property, then it would have that unit also on the tax map key number in any ads that they do. We think that this is simpler and it's more transparent because it utilizes readily available public information.

So just a little bit more information of why the Planning Department is proposing what it is. Normally when you have a permitted use like something that's allowed, you don't have to get a registration because it's, it's allowed. The County Council's proposal is also not clear regarding the allowed use by the property which would mean, like, everything on that parcel or just the one unit in that, on that property. What the Department is proposing is to stay within the current, stay with the current practice of allowing use by property. It's a lot easier and it's more equitable for all of the property owners if there's multiple property owners, or a lot, or a condo.

Also, major online platforms like AirBnB and VRBO, they're already set up to use TMK numbers. We are working on some agreements with them, but it would be a lot more seamless to just use TMKs because, like I said, you know, that's what they use anyway. We do work with a vendor that researches online advertisements to look for illegals, and they use TMKs also so it would be real easy, just like with the platforms to use TMK.

Attached to the documents you received is the document from real property. And you can see in there that they identify three -- sorry -- 7,329 apartment district condo units that are allowed to conduct TVR use, transient vacation rental use. That's a lot. And for the Department to register all of them that, you know, are able to and are going to, and monitor them -- and this is a permitted use -- it's not needed and it would be a really big demand on the staff and the resources especially when there's an easier way, you know, using the TMKs. It's always been really hard to get tax information from the State Tax Office, so it would be hard for us to find information about when taxes are delinquent. So, we would have a really hard time getting that information to verify. It's easy to get information from property owners when their taxes are paid in full. They love showing that information. But, it's really hard to get information when taxes are . . . (inaudible) . . . Just, we've noticed that over time.

And like I mentioned, it's transparent. It's verifiable information -- tax map key numbers, GET, real property tax -- so, it would be a lot easier to use that information. It's simple, manageable, accountable and transparent.

The other thing that we're proposing is to add a definition. You saw on that previous slide the existing language in the Code. It has this term, building envelope. But we don't have this term in our definitions chapter, and so we'd like to add it there. And that would be the area enclosed by the three dimensional exterior surfaces of a building or structure, including any open air areas between posts or the posts and walls that hold up a roof such as carports and covered decks. Here's some samples of what that building envelope would look like. And like I

mentioned, the reason this is in there is because we want to make sure that the transient vacation rental use is confined to what was approved back in 1989, and that that use doesn't expand. That's why the term building envelope.

So in a nutshell we're supporting the bill with some amendments. We would like for the unit or property owner to hold a valid General Excise and Transient Accommodation Tax licenses for the subject property. And that the taxes are paid in full and kept current. We want the unit or property to be subject to the short-term rental real property tax rate. That advertisements for TVR use include the TMK numbers and applicable unit number. And adding that definition of building envelope to Section 19.04.040 where we have all our definition.

The Commission has options as mentioned that you could recommend that the County Council approves the bill. You can approve the bill with amendments which I have in bold because that's what we'd like you to do. You can recommend denial or you could defer action in order to gather additional information.

So like I mentioned we did present this to Maui and Molokai. And for Maui, they wanted more information so they will be discussing this again on the 27th. And for the Molokai Planning Commission, they voted to recommend approval of the bill with our recommendations. And I'm going to stop sharing and I need to close the door because they're vacuuming. But I will be right back. And I'm listening so hang on.

Okay, thank you very much. That's all for the presentation.

Ms. Kaye: Okay. So before we take public testimony, I just want to clarify one thing. I pulled up the zoning map as well and we have several parcels that are in, that are apartment zoned. I always wondered when I read through this you keep calling apartment district but there isn't really such a thing on any of the islands. It's just, it applies to apartment dwellings, correct? Right, so we have on the edge of town, at least as far as I can tell, Iwiole, and the Quads, and there is an apartment zoned condo building that's across from the school. And I believe Hale Kupuna and The Courts are also apartments. So, just, just before we get into public testimony or questions, it occurs to me, if I'm reading this map right that it does apply to us.

Ms. Takakura: Okay. Yeah, I apologize, I did look on the map and I was looking for the orange. I think the lighter-orange. I apologize for that error. It is --. We call it --. I refer it to apartment zoning district. We have A1 and A2 as a zoning district. And the difference between the A1 and A2 is the height, but -- yeah, it's a zoning district and it's one of the chapters in the Maui County Code. Yeah, I do --. On our list of properties in the apartment zoning district that can do vacation rentals -- so these are properties that were built, you know, before 1989 and they meet all the criteria -- I don't think I have any on Lanai. But I'm going to double check that right now. I know there's a couple on Molokai, but the vast majority are on Maui. But I'm going to verify that right now.

Ms. Kaye: Okay, then Leilani, has anyone signed up to testify?

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

Ms. Kaye: Okay, is there anyone on the phone that would like to weigh in on this, have anything to say? Okay, then I'm going to close public testimony on this item. Commissioners, now it's our turn to ask questions. Well I have a -- you say that you are in negotiations with AirBnB and VRBO; when did those start, and who's negotiating, and when do you think it might be resolved?

Ms. Takakura: Thank you Vice-Chair Kaye. I'm going to defer to the Director.

Ms. Kaye: Okay.

Ms. McLean: Thank you for the question. The discussions have been going on for more than a year. And it has involved myself primarily as well as our -- the division where Jacky is, the Zoning Administration and Enforcement Division that is responsible for enforcement. And so the head of that division was also involved in the wording, and of course the County attorneys. We pretty much agreed on language and now it's just waiting for final review by each parties, respective Counsel, and execution. So we do expect to be able to sign them any day.

Ms. Kaye: Okay, and I wonder did County Council -- I looked this up and I saw that they waived going to Committee on this. They just send it straight to the three planning commissions. Was there any -- do you have any idea why, what's behind this? What problem are they trying to solve that they want to do all these registration numbers?

Ms. McLean: That's a great question and I don't really know because we didn't have the opportunity to discuss it in Committee. The Council has done that a few times lately with bills so we get them and take them to the commissions and we don't have a whole lot of background other than the Committee Report and the Resolution that came along with it. So I don't know really know that there's a sense of urgency. But to us now the timing of this does work out well if we are able to execute those agreements soon that this requirement would go along with it.

Ms. Kaye: Okay if I could follow up then. You've got one commission that deferred it, one that approved it with your amendments, and now it's to us. And regardless of what the commission determines tonight what is your next step? I mean, do you have any means to go back to County Council and say this is a really bad idea? Or are they just, you know, going to ram it through anyway?

Ms. McLean: Well, anything that gets reviewed by Commission has to go to the Council for final action. We put a package together that includes the minutes from the commission meetings, our transmittal letter, a revised proposed bill that incorporates commissions' comments, and the Department's recommendation. Those aren't always in sync so we have to make it clear how the wording of the bill is what we're proposing at that point. And then we

send that to the County Council. Typically that gets referred to committee and then they'll have a fuller discussion at that time. Sometimes they might just pass the bill on the Council floor. They're, they're moving pretty quickly these days so --. But if they wanted to make significant amendments to the bill that we transmit, they would refer it to committee and have a full discussion in committee.

Ms. Kaye: Okay. Commissioners, questions, comments? Lisa?

Ms. Grove: Is it possible to elaborate on some of the additional information requested by the Maui Planning folks, the Maui Planning Commission?

Ms. McLean: Jacky, go ahead.

Ms. Takakura: Thank you. So one of the things they were asking about was that definition of building envelope. And I think it wasn't really clear that we were trying to make sure that this --. It's actually kind of like a non-conforming use because it was something that was allowed before, but then . . . (inaudible) . . . changed the definition and things changed and now it's only allowed in certain criteria. I don't think it was clear to them that that was the purpose of having that definition of building envelope so that use that was once allowed doesn't expand. And then they also wanted to see the bill in a bill for ordinance format. So that's what we're going to be sharing with them next week.

Ms. Grove: Thank you.

Ms. Kaye: Does that answer your question, Lisa? So in other words, Jacky, when the County Council sent over the attached bill for ordinance, they used the Ramseyered format. You know, what's underlined goes in, what's bracketed comes out. But you guys have just kind of given us some bullet points. So, how will that look?

Ms. Takakura: I can actually screen share if you'd like to see. It's pretty simple because it's actually just a few revisions. Would you like me to screen share that?

Ms. Kaye: Sure.

Ms. Takakura: And the other thing I can screen share is I did pull up the digital zoning map for Lanai, and yeah, I normally look for the darker orange color and I do see some light color. But I can screen share the digital zoning map if you would like also. Give me a minute and I'll pull up the draft bill for ordinance.

Ms. Kaye: Okay, while you're doing that, can I ask a question, Michele? Since this is one item but they're really two things here. One is you've proposed changes to 19.12, and the other is adding the definition of envelope. Does the Commission have the prerogative to take them separately?

Ms. McLean: I, I think so. I mean ultimately we're looking for your recommendation to the Council so we would send those back together. But, for example, if you were prepared to act on one today and not the other, we might transmit them separately, or we might wait until, until they've been both been acted on and then we could transmit them as one.

Ms. Takakura: Excuse me, Vice-Chair Kaye? I can screen share the draft bill if you'd like to see it.

Ms. Kaye: It might be helpful. Yeah.

Ms. Takakura: Okay. So it's very short. This is where we would put the building envelope in Section 19.04.040. A little drawing. But that's where the building envelope definition would go in where we keep all of the other definitions. And then I'm just going to scroll down a little to the actual proposed revisions to 19.12.020. And letter G is the part that's all about vacation rentals. And it's all right here. The underlines, just adding number three and the number five that the property owner or manager holds the valid GE and TAT licenses, and that they've been paid in full and current. And then the part about the ads having the TMK number. We're saying advertisement for transient vacation rental use include the subject property's registration number which shall be the numeric digits of the subject property's tax map key number including CPR unit number if applicable. That's actually it. That's it. So it's just this part G that -- right here.

Ms. Kaye: Okay, thank you Jacky. Commissioners? John? John, you're muted.

Mr. Delacruz: Am I okay now?

Ms. Kaye: Yes.

Mr. Delacruz: I have a question on the -- in three parts -- on the revenue. Are all TVRs subject to both the transient accommodation tax and general excise tax? That's the first part.

Ms. McLean: Commissioner Delacruz, this is Michele. Yes they are.

Mr. Delacruz: And how do you figure out how much is due for each tax? Do you depend on the honor system?

Ms. McLean: Well, that's not a County function. That is a State function. And so it's, it's up to the State to determine if, if the taxes are being paid accurately. I don't know how they make that determination. What would be new with this proposed change is that it becomes a County requirement that the person pays the tax. So if they fail to do so not only would it be a violation of a State requirement like it is now, it would also be a County zoning violation.

Mr. Delacruz: Okay. Thank you. The sharing of the revenue, it's still, the State still gets the TAT and the County will get a portion of the general excise tax?

Ms. McLean: Right now the State gets all of the GET and the State legislature each year when they do the budget determines what percentage goes back, of the TAT, goes back to the counties. This particular year they're given the counties none. But they've changed the law to authorize the counties to also impose an additional, up to three percent, TAT at the County level.

Mr. Delacruz: So up . . . (inaudible) . . . up to now, the State -- the County is respond for marking the compliance and licensing, but as yet, the County just get -- the County gets very little revenue up to this point.

Ms. McLean: So up till now the County has not had any function in ensuring the GET and TAT is paid. But with the, but with this proposed bill, the County would have a roll in collecting that tax. In the Apartment Districts and when it comes to vacation rentals that have a bed and breakfast permit or a short-term rental home permit, the County does also verify the GET and TAT have been paid. So those are the scenarios where the County has a role in GET and TAT currently. Of course, if the County chooses to exercise its authority under the new law and impose its own TAT, then that would be completely within the County's control.

Mr. Delacruz: Okay, thank you.

Ms. Kaye: Okay, Commissioners, any more questions, thoughts? Would anyone care to make a motion given the four possibilities of action that we can take on this item? Okay, well, I'm not going to make a motion so I'm going to read our choices out again so someone can take the ball if you'd like. We can recommend approval of the proposed bill as submitted to us by County Council. Or, we can recommend approval with the amendments suggested by the Planning Department, and again, any others that we would like to add. Three, we can recommend denial of the bill all together. And four, defer action if you have something more specific that you would like to see before we decide what to do. Shirley? Shirley?

Ms. Samonte: I'll make a motion.

Ms. Kaye: Okay.

Ms. Samonte: I recommend approval of the proposed bill with the recommendations of the Planning Commission, Maui Planning Commission -- oh, with the Planning Commission.

Ms. Menze: I second.

Ms. Kaye: Okay, we have a motion and a second. We need discussion now. And so I would just ask the mover and the seconder, do you want to approve the building envelope as part of that as well? Are we comfortable with that or do we need to address that separately?

Ms. Samonte: I'm comfortable including it in that.

Ms. Kaye: Okay.

Ms. Menze: Me as well.

Ms. Kaye: Okay. Any further discussion? Okay, let's have a roll call vote then please. Chelsea?

Ms. Trevino: Yes.

Ms. Kaye: Okay. John?

Mr. Delacruz: John, yes.

Ms. Kaye: Okay. Shirley?

Ms. Samonte: Yes.

Ms. Kaye: Okay. Sherry?

Ms. Menze: Yes.

Ms. Kaye: And Lisa?

Ms. Grove: Yes.

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

VOTED: To recommend approval of the proposed bill with the recommendations of the Planning Commission.

(Assenting: J. Delacruz, E. Grove, S. Menze, S. Samonte, C. Trevino)

(Excused: S. Preza, N. Ropa)

Ms. Kaye: Okay, motion carries. Thank you.

Ms. Takakura: Thank you.

C. COMMUNICATIONS

- 1. MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI, submitting the 2020 Annual Report regarding the water usage at Manele pursuant to Condition No. 24 of the Special Management Area Use Permit and Project District Phase II Approval five-year time extension for 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.

Ms. Kaye: Okay, the next item on the agenda is the Communications. Keiki-Pua Dancil will be giving us a 2020 annual report regarding the water usage at Manele pursuant condition no. 24 of the Special Management Area Use Permit. Keiki-Pua?

Dr. Keiki-Pua Dancil: Aloha Commissioners. Aloha Vice-Chair Kaye, members of the Commission, members of the Planning Department, and the public that has joined us this evening. To preserve bandwidth I'll just leave my video off and go over some of the highlights.

So first item, agenda Item C.1., is associated with our Special Management Area Use Permit and Project District Phase II, five-year time-extension request for the residential and multi-family development at Manele, Island of Lanai, Hawaii. TMKs: 4-9-017-001, 002, 003, 004, 005 and 4-9-002-049.

The condition 24 has -- we filed this annual report into the Planning Department, County of Department of Planning and the Lanai Planning Commission. Some highlights or changes from 2019 in the annual, there were no State of, State of Hawaii, Department of Health noted no violations. And we also include our annual consumer confidence report as attached as Exhibit A. It's also found on the Lanai Water Company's website. I forgot to mention our Director of Utilities, Joy Gannon, is here for questions as well.

Attachment B is -- tabulates the water meter readings. There were no new spas that were built. And in 2020, regarding watershed management, we have, we continue working on ungulate exclusion fence. We have a new one underway down at Hulopoe. This fence will limit the ability of ungulate to approach the shoreline around the resort area and beach park. There's also a home to a large colony of 'ua'u kani. It's wedge-tailed shearwaters. Construction started the first quarter and is expected to be completed next year. The fence is anticipated to be about 14,000 linear square feet in length.

We also continue working on the Kuahiwi a Kai, the Lanai Watershed Conservation Program. It's in its second year. We have multiple partners and grantee. Some of the items that we're doing -- some of the new awards include mapping current vegetation, identification of sensible, sensitive erodible soils, assess near shore reef health, monitors water quality health. They're also beginning an ungulate fence at the Kuahiwi a Kai to better manage the area. We also began community hunting to reduce ungulate populations.

Conservation work continues along Lanai Hale by Pulama Lanai and multiple research and management partners to conserve resources in the watershed from 'ua'u monitoring and removal of non-native predators, to rare plant monitoring and protection, construction of

predator-proof fences protect native wildlife and habitats, and surveys for endangered snails continue as well as out planting native species.

I can stop there Vice-Chair Kaye, and we take questions or I can continue on and then --. It's up to you.

Ms. Kaye: No, let's deal with them one at a time if it's okay with you.

Dr. Dancil: That's fine. So that's -- you know, you guys have the reports in front of you. I just highlighted some of the changes from 2019 to 2020 because this is annual report. Like I said, I'm here for questions and so our Director of Utilities, Ms. Joy Gannon.

Ms. Kaye: Commissioners, questions? Okay, well, I have one to --. I'm sorry. Yes, Sherry? Sherry, did you raise your hand? No. Okay, did someone else? Okay, I have just a question or two for Joy. You guys --.

Ms. Joy Gannon: Hi.

Ms. Kaye: Hello? Joy, are you there?

Ms. Gannon: Can you hear me?

Ms. Kaye: Yes. Hi, Joy.

Ms. Gannon: Hello.

Ms. Kaye: Hi. . . . (inaudible) . . . And at one time when they were first imposed, the number of certified operators was really an issue. This was years and years ago with Castle & Cooke. So I was just . . . (inaudible) . . . I'm sorry, where's that feedback coming from?

Ms. Gannon: . . . (inaudible) . . .

Ms. Kaye: I'm just wondering if you would tell us what the optimum number of certified operators would be in your opinion, and when do you think you might get there?

Ms. Gannon: Sure. You know that's a really good question and there actually isn't a standard on that. So we actually have, let's see, I'm a grade four and we just hired a new individual. He'll be -- who had his grade four in Florida and will be testing for Hawaii because of reciprocity, next week. And we'll have a few more people testing next week. So, I suspect there isn't a standard you need to have x-number of certified operators. The standard is you have to have one certified operator to the level of the grade of the, grade of the system. We have a grade two system and a grade one system, and that that direct responsible charge has to be within the State at all times. So we, let's see, myself, Elmer, Kevin, Kimo, Leslyn are all grade two or higher. So we have at least five people in that position. And then John

will test next week which I'm sure he'll have, so that will be six. And then we have one grade one, and then an additional person testing -- two additional people testing next week for a grade three, a grade four, a grade two and a grade one. So certification went on hold during COVID because it was impossible to test but it's increasing.

Ms. Kaye: Okay. Thank you, Joy. I have just two really quick ones, and then I wanted to ask you something about one of the charts. What's the status of rate case with the PUC?

Ms. Gannon: It breaks my heart. So as you might recall the rate case we had a public hearing scheduled three days before COVID shut down the entire State. So that public hearing got postponed and the emergency orders continued and continued. So I suspect at this point in time we were dealing at that point in time with 2020 data. We're already in 2021. My hunch is that when the PUC will publically no longer accept that data so we probably have to start all over. Yeah.

Ms. Kaye: Do you have to resubmit everything or just insert different data?

Ms. Gannon: It's going to -- I would say probably submit 80 percent of it because it's all different data. Almost all different data.

Ms. Kaye: Okay. And the status of the smart water meter installation, how's that going?

Ms. Gannon: They're -- we got all of them have smart meters except for a few hydrant meters. So those are the temporary construction hydrant meters that you see. Some of them -- if they're longer use, those construction meters have smart meters. But otherwise we're a 100 percent. If you look at the data overtime, they've been very, very successful. In fact CWRM has invited me to do a presentation to the State on our implementation of the smart meters and the impact thereof.

Ms. Kaye: Okay. I had one more question but it's dealing with numbers. Would you rather deal with that outside where I can explain it in an e-mail, or do you have the paperwork in front of you?

Ms. Gannon: I have the paperwork in a separate screen so I could probably -- I can give it a shot, Sally.

Ms. Kaye: Okay, while we're doing that, Commissioners, any questions for Keiki-Pua or Joy? Well, while we're waiting, it looks like we lost Joy.

Ms. Gannon: Go ahead. I'm still here.

Ms. Kaye: Okay, good. This isn't an action item. This is just for information. If my calculations are correct these conditions if they come back in, Pulama, for an extension they will be revisited next year because I think it was a five-year extension.

Okay, so the page-5, the 2020 annual report of Manele's brackish water use --

Ms. Gannon: And?

Ms. Kaye: Okay, so, I just want help with the numbers. If you look at the top line which is multi-family, it shows third quarter and fourth quarter of 2020 pretty much the same. But what I, what I wonder is this is a 61-day and 122-day. Is it correct to say that in third quarter, over the period of 61-days that was the gallons per day for brackish water --?

Ms. Gannon: So all the ones that . . . (inaudible) . . . are gallons per day. So we provide the . . . (inaudible) . . . Everything that you're seeing is gallons per day. So we take the total amount used and divide it by the number of days. So all of your numbers are gallons per day.

Ms. Kaye: Okay, so if it's gallons per day, and there are 54 units down there, then is it right to say that each -- not each unit. I know that they're not all the same. But on average is using 1,735 gallons per day?

Ms. Gannon: Without doing the math, I'd have to assume that you did the total divided by the number of units. And, you know, without checking your math that would be your average.

Ms. Kaye: Okay, what's the County's standard for brackish irrigation use? Do you know?

Ms. Gannon: I do not know. The drinking water is 600. And I don't believe they have a brackish standard, but that's something I could look into.

Ms. Kaye: Okay. Thank you. That's all I have. Thank you very much. Commissioners?

2. **MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LANAI, submitting the Q1 2021 Quarterly report from Mid-December 2020 through Mid-February 2021 (two months), pursuant to Condition No. 15 for the 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. Kaye: Okay. Then I guess we're moving on to the second part of the presentation.

Dr. Dancil: Okay. Agenda Item C.2. is associated with our Project District Phase II application for the Four Seasons Resort Koele, improvements at Koele. Condition 15 states that we shall provide the Commission with quarterly and year end water usage reports for the project site.

The number, it's a very short report. The numbers are there, and I'm here for questions and so are Joy.

Ms. Kaye: Commissioners? I just have one quick question, Keiki-Pua. The very last sentence before you signed, you say, cannot be directly correlated to the monthly periodic water report because the monitoring period and the meter reading don't coincide, or do coincide?

Dr. Dancil: They don't. It should be don't.

Ms. Kaye: Okay. Thank you.

Dr. Dancil: Thanks for that. We'll make that correction on the next report. Thank you Commissioner Kaye.

Ms. Kaye: Okay, anybody else? I'm sorry, John, no? No questions? I'm sorry. I absolutely forgot to ask if there was public testimony. Leilani, had anyone signed up for these two?

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

D. DIRECTOR'S REPORT

1. Open Lanai Applications Report as distributed by the Planning Department with the July 21, 2021 agenda.

Ms. Kaye: Okay then, thank you very much Keiki-Pua and Joy. And we can move on to the Director's Report, open Lanai applications. And then I think we're going to get an update on the status of the short-term rental, which I think is on the agenda for tomorrow, and an item that was on last month. So, is that you Michele?

Ms. McLean: Yes, Chair, I'm not sure about the item that was on last month, but I do -- I did briefly look up all of the items on the open project report. So if there are questions on those, I'll do my best to answer them.

And then, yes, as you mentioned the Council's Planning and Sustainable Land Use (PSLU) Committee, at its meeting tomorrow will be taking up the bill that you created with Deputy Director Jordan Hart related to B&Bs and Short-Term Rental Homes on Lanai. That meeting begins at nine, and that this is the second item on the agenda. But the Council takes all testimony up front. So if any Commissioners or members of the public wanted to testify, they would join that meeting at nine.

I think the item that you might be referring to that came up for discussion last month was the Miki Basin County Special Use Permit.

Ms. Kaye: Right.

Ms. McLean: And that, it has actually been withdrawn. They are going to modify the scope and reduce the scope down. My understanding is that they would remove the concrete batching proposed use and just keep the proposed use as concrete recycling, rock crushing, and storage.

Ms. Kaye: Okay, so that's going to come back because it's hard from these list to even know where this was or what it was about. So it's withdrawn. We don't need to worry about until it comes back. Okay, then if you could just tell us because this is like, you know, a very robust report with lots and lots of application and it's a little hard to tell where they are and what they're about so if you could fill us in.

Ms. McLean: Certainly. Well, the first, if you look on the far left column, the first four TMKs that are listed, those are parcels that are part of Koele Project District. And all of those together are in one application for a Change in Zoning, Community Plan Amendment, and Project District Phase I approval. And the purpose of that is to update the Koele Project District boundaries and districts that was first adopted in 1992. And the proposal is to add and delete some acreage. What's proposed is less residential and more hotel and commercial. The hotel and commercial is really to designate existing uses such as the stables and the tennis courts because those are currently not properly designated. And also to bring the project district map in sync with the new community plan map. There will also be less land designated for golf course and instead be put into park and open space. So it's, it's a lot but a great deal of it is what we refer to as housekeeping. There's not significant proposed new development or really much new development at all associated with it.

Ms. Kaye: Okay, thank you.

Ms. McLean: Then the next item, the T-Mobile item that is an existing cell antenna outside of Koele. And they're proposing to modify the existing 20-foot antenna. Next is the commercial building. That is to make renovations to comply with ADA requirements. And also to add a bathroom and to convert a storage area into retail. Next is the former Canoe's Restaurant; its proposed expansion and also improvements for ADA compliance. And then on the second page, the Lanai Youth Center, that's a landscape and parking plan. So that's just to make sure that the parking is compliant and that it has the landscaping required by the Code. And then the last one, the proposed parking lot, is to pave about three acres. And part of the reason for that is because the Department of Health says that that area needs to be capped due to some of its prior uses. So that's proposed to be paved about a three acre portion of that parcel.

- 2. Status update on the STRH/B&B proposed changes.**
- 3. Agenda Items for the August 18, 2021.**

Ms. Kaye: Okay, thank you. Commissioners, any questions for the Department? Okay, so we got the status. Okay, so agenda items, I know we always ask Leilani and the Department at this point. But Commissioners, we also have the prerogative of suggesting agenda items as they occur to you so keep that in mind. But do we have anything for August?

Ms. Ramoran-Quemado: At the moment, nothing definitive yet, but there may be a waive review, but we should know maybe in the next week or two.

Ms. Kaye: Okay, does anybody, finally does anybody know if they will or will, or will not for sure be able to make August's meeting? Okay then, any final thoughts Commissioners? Any additions? Okay then, meeting is adjourned. Thank you all very much.

E. NEXT REGULAR MEETING DATE: August 18, 2021

F. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at 5:55 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

John Delacruz
Elisabeth Grove
Sally Kaye, Vice-Chair
Sherry Menze
Shirley Samonte
Chelsea Trevino

EXCUSED:

Shelly Preza, Chair
Natalie Ropa

OTHERS:

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