

**LANA`I PLANNING COMMISSION
REGULAR MEETING
JANUARY 16, 2008**

APPROVED 02-20-08

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Chair Reynold "Butch" Gima at approximately 7:04 p.m., Wednesday, January 16, 2008, in the Old Lana`i Senior Center, Lana`i City, Hawaii.

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

Mr. Reynold "Butch" Gima: I'd like to call to order the January 16, 2008 meeting of the Lana`i Planning Commission. Let the record show that we have quorum with Commissioners Gamulo, Endrina, Mano, Ruidas, Kaye, Zigmond, and Gima present. And I think Commissioner de Jetley will be arriving shortly.

B. APPROVAL OF THE MINUTES OF DECEMBER 19, 2007

Mr. Gima: Okay, at this time, I will entertain a motion to approve the minutes of December 19, 2007.

Ms. Sally Kaye: So move.

Mr. Lawrence Endrina: Second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye and seconded by Commissioner Endrina that we approve the minutes of December 19, 2007. Any discussion? Corrections? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried. All right, we're on to unfinished business and I'll turn this over to Joe on the deferral of Council Resolution 07-108 referring to a Bill for an Ordinance to prohibit Superstores in Maui County to the Lana`i, Maui and Moloka`i Planning Commissions. Joe.

It was moved by Commissioner Sally Kaye, seconded by Commissioner Lawrence Endrina, then unanimously

VOTED: To approve the December 19, 2007 minutes as presented.

C. UNFINISHED BUSINESS

1. **MR. JEFFREY S. HUNT, Planning Director, transmitting Council Resolution No. 07-108 referring a Bill for an Ordinance to Prohibit Superstores in Maui County to the Lana`i, Maui, and Molokai Planning Commissions. (RFC 2007/0099) (J. Alueta) (Public Hearing conducted on December 19, 2007.) (Materials circulated at the December 19, 2007 meeting. Members: Please bring the materials with you.)**

Mr. Joseph Alueta: Thank you Sir. Good evening and Happy New Year! I have not seen you all. At your last meeting you did defer action on the Bill. You wanted to know what the potential impacts of the Bill would be on Lana`i, and potentially Maui County; if there's any other studies done; what was the rationale of this Resolution; and also what did Molokai and Maui County, or Maui Planning Commission and Molokai Planning Commission act on it. First I'll apologize on I did supply you with a hefty piece of documentation that I received only yesterday from the County Council. When I was reviewing some of the transmittal – as you know this Resolution was sent down – you were given, I guess, a brief memo report that I drafted as far as our analysis of it and what we wanted to see potential changes to it should a Bill like this be adopted. And at the same time we were neutral as far as being in favor of it or against it. We just felt there was some structural changes for it. But at the same time you guys wanted more information as to why was the Bill drafted in the first place and what research to support it was done.

In the committee report that was given to you, along with our staff report, if you had gone through that committee report that was sent down by the County Council, they had made reference to I believe several websites and I asked the Council did you guys use these? And so he said he "yeah," and he proceeded to get me some of the documentation, and I then killed a few forest trees to print out the documents for you and get you all a copy of those. Obviously I didn't expect you guys to read them here. I just wanted to, again, make it available to you as well as try to address why you deferred.

As far as what Moloka`i and Maui Commission, they did not receive this documentation. They based it off what the Bill said and the Planning Department's presentation. They did, on Moloka`i, they voted to go with Planning Department's recommendation as far as trying to do a size limitation for the County of Maui. And, as well as, listing it throughout the County Code through the business districts, the appropriate business districts, that need to be amended, and say that Superstores would not be allowed in those areas. And again, as well as, simplifying the definition of a Superstore so that it would be based on square footage only and not create a grocery size limitation as well as an item size limitation. They desperately wanted to come up with a recommendation for Moloka`i specific. Meaning that they wanted to say, but on Moloka`i we want to limit the size even further. They bounced numbers around anywhere better 15,000 and 35,000 square feet for the structure. This was based on one Commissioner's recollection that Friendly Market on

Moloka`i was 18,000 square feet. So they wanted to allow for that the existing shops that were on Moloka`i would be able to expand in some type because they were talking about expanding. But at the same time they wanted to control the scale of it to Moloka`i. They couldn't come up with a number so they left it at that. So their comments back to the Council will be, yeah, make it simple if you're going to adopt the Bill. And that they had talked about on Moloka`i that still wouldn't work. They would want a smaller size for Moloka`i.

On Maui, I believe that they – Colleen correct me when Maui took action because I was not there – they voted –

Ms. Colleen Suyama: . . . (Inaudible. Did not speak into the microphone.)

Mr. Alueta: What about the department's recommendation with regards to size limitation?

Ms. Suyama: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Alueta: So similar. A similar recommendation came out for Maui. Also at the last meeting, Chair Gima had brought up that he felt he wanted sort like a, I guess a different format for our staff reports. At least, I wasn't sure it was a format for all staff reports or just specific to Legislation staff reports. But he did send over a draft of what he was thinking of and I tried to work from that. I got it yesterday so I tried to fill in what I felt was applicable based on that to try to you what I call like a cheat sheet and quick bird summary of what it is. If you look, there was another sheet that had kind of a summary and I'll go over that really quickly.

What was the origination of the proposal? In this case it's the County Council. As I indicated earlier, there's two methodologies in which a Bill or Ordinance can get initiated. And that is one, either by the department or Director initiated or by County Council. And there's certain parameters that each one follows. In this case, it's the County Council. The summary of their proposed Bill is that they propose to define what a Superstore is and ban the superstore. The current Legislation I believe 90,000 square feet as well as establishing or having 25,000 stock keeping unit items, as well as 20,000 square feet dedicated to grocery stores.

Other counties have floated the idea. Kauai, I believe, they have a Bill passed. The Big Island, their first attempt at the Bill did not pass, but they're in the process of re-introducing that Bill on their side. As well as you saw some drafts from the City and County of Honolulu.

Everybody has a prospective of what's a pro and what's a con. That's a little bit difficult for me to put that kind of subjective analysis into the pros and cons of it. I kind of look first. I tried to look at. I did my best at it, with the format, I guess, the Chair wanted. My main thing I look at it, from the Legislative side, is look what is your two main documents? These are your Lana`i plans and your General Plan. So I tried to look at it, and there are objectives within both the General Plan and the Community Plan which would be – which this would be in support of. This would not be in contrary to the intent of some of these policy statements, and objectives. And I they talk about mostly with the scale, economic vitality and preserving the small town and rural character of the communities. And they're very applicable to specifically in Lana`i. Based on the existing ordinance, the cons, from our stand point, from the Planning Department's stand point, I guess, we looked at it again from an enforcement standpoint. How we determine the number of type of lima beans sold, number and type because they had groceries and size limitations. Further we felt it would be inconsistent with the current small town character that you've already developed for Lana`i from that basic planning principles.

We feel also that, in our proposal, that we want to simplify it to like I say, just having it a square footage, rather than having the grocery items counted, as well as the stock keeping unit items. I believe in my memo report to you dated December 19th – that is, I outlined the pros and cons of the Department's recommendation with regards that. The pro is – the advantage is that it makes it simple for the Department to enforcement. It also allow – it would allow existing stores to change their product mix. So a Wal-Mart, a K-Mart, or even a Home Depot could conceivably add groceries because the size of their structure is already greater than 90,000 square feet. What it does in the future, but it does make it simpler, it also, not just prohibit stores of 90,000 square feet that have that product mix, but it would prohibit any structure of 90,000 square feet. So it would really control any building that's a retail building not to be constructed larger than 90,000 square feet as a single entity. So I think that's the difference. Because under the existing Bill, with the existing proposal – because if you don't meet the groceries or items, you could theoretically still build a 200,000 square foot building if you're only selling 10,000 items and have no groceries, or sell 100,000 items but you have no groceries. So you could still have some type of mega – what I would call a super structure under entity and that super store Bill would not prohibit that. Whereas our proposal would simplify it, but also kind of control the scales of the building that's being built in Maui County.

The final authority with this proposal – following the summary sheets – is that the County Council is the final authority. The statutory base and code to the amendment – the zoning power is granted to the County by the State Legislature, so we have that authority. The County's Title 19 and as well as 19.04 the definition section for the zoning code would be amended. The Department, again, is recommending that if you're going to have a ban that

you reference the prohibition on Superstores not just within the definition of 19.04, but you also go through your commercial districts such as your 19.15 which is the Country-town. Your B-1 district – your 19.16. B-2 in 19.18. 19.20 the B-3 district. 19.22, the BR Commercial District. It specifically says that these are prohibited. It just makes it cleaner when somebody says what's my zoning? B-3 – what can I build? And they say well I'm going to build a (inaudible), it says here you can't do it – a superstore – and this is what it's defined by. And what will happen is this square footage limitation that the Department is proposing will be just another building standard that you have now such as floor area ratio, height restriction or height or story height or whatever that's already there in your building. This 90,000 would just be another one of those restrictions. So it's a standard in the zoning code for those districts.

I left those two items – the financial implications – again, may result in higher prices for the community as a whole. It may result in lower wages in a market as a whole. It may result in less diversification in the small business communities. Some of that is from some data I've seen in areas where you tend to have – your smaller shops tend not to be able to compete. They don't have the large scale that a Wal-Mart has so you tend to have a little higher prices. But at the same time, these tend to be small mom and pop stores. The wages paid by those are a little higher than what you would normally see at a large chain operation. And at the same time you have – I think you tend to have less diversity. Entrepreneurs don't start up small businesses if they feel they're going to be crushed by the big boys in the first place, and they may have a unique product. To get that unique product item, you tend to have a better chance of peddling that unique product to a small mom and pop shop, or a smaller chain, than trying to get in at a Wal-Mart or a K-Mart because they only select certain items and they take it nation wide. It's great if you get selected. It's like getting your book selected through the Oprah Club. You're going to hit it big if you get selected. But if you don't, your product never gets picked up. From that aspect, I think you get a less of diversify business community and different products.

How does it affect the proposal specifically in Lana`i? Even with the proposed restriction any store or structure built near the proposed limitation would be out of character with Lana`i. And it's unlikely that the current economic market on Lana`i that any retail would develop a superstore on Lana`i. I think we heard from the Wal-Mart that they're looking at doing another Wal-Mart, but it's on Oahu. They have no intentions to even do another one, at least in their three to five year horizon. I don't know what their 20-year horizon is, but their planning schedule right now from what they're indicating, it doesn't look like it. We've always had rumors of other stores such as Target coming in to Maui – just another large scale store. But for Lana`i, given its population base and its economic, it doesn't seem feasible for someone to build a 90,000 square foot structure with 20,000 square feet of groceries, and offer 25,000 items.

Moloka`i had the same feeling in their discussion with the Commission. They were like – chances of it happening on Moloka`i is very slim to them. So they really wasn't that concerned with the Bill because they didn't see it as having that much of an effect in the near term for them. But they felt there was an opportunity for them to voice their concern about the size of the structure and try to set up a limit for their community in itself.

Technically the time was January 10th that we were suppose to all get the comments back. We tried. Our Department tries to get a fast turn around. There's been numerous occasions where we don't get it back and the Council has waited. I do not think that this is a pressing item that they're going to pick up rather quickly. I think they will wait for the comments from all three Commissions and being transmitted it up by the Department for them to act. But I just have to make you aware that there was a Charter requirement that we get it back to them by a certain date.

Again, we're not taking any position for or against. We're just trying to point out the structural problems that we had with the Bill overall. And I left the item #14, from the summary sheet, as it was, and basically it is to recommend approval, approve with amendments – that should be, rather than conditions – defer, or just recommend that there be no superstore ban at. If you have any questions, comments?

Ms. Kaye: Do I understand you Joe to say that if we wanted to try and – if we wanted to discuss putting a limitation for Lana`i, that would certainly well under 90,000 square feet, that this would be something we could offer as an amendment?

Mr. Alueta: Yes, your comments – with these Ordinance, you get just basically a comment to. So if you want to say “for Lana`i,” it should be x-square feet.

Ms. Kaye: X-square feet. Okay. Here's a hypothetical that – first of all, let me back up and say that I did get on-line and I read through a good bit of the information on that sites that you gave us last time. And the very first one is a big box tool kit. And it really leads you to all the other sites, the Maryland study, and the Legislative Reference Bureau. And what was really interesting is that this is happening all over the country. There's one place in Connecticut that limited 4,000 square feet – that's it. So superstore is not 100,000 square feet or more. It's defined locally. However, local people decide to define it. Barnes and Noble is theoretically a superstore, but it only sells one item and it's way, in some cases, under 90,000 to 100,000 square feet.

So for Lana`i, what I find really interesting is if you took one of these long stretches, two blocks up where Highlights is and built a store there. I think that runs around 44,000 square feet, that lot. And I found a piece of information that the Company had passed out

several years ago that indicated that they think they could use up to 75%. And I looked in the Code, I can't find the Business Country District – what the lot requirement is – footage – I'm sorry – that could be used. But they seem to think that 75% of 44,000 could be the size of the building, and that's 30,000 square feet, and so that's big. So I really do think it is something we should think about whether we want to put some kind restriction.

Mr. Gima: Go ahead Larry.

Mr. Endrina: Overall I think we have to do something for Lana`i because of the size of it. Even to restrict it to 15,000, maybe 20,000 at the most – but – and no matter what. Whether it be 20% grocery and something else. I still feel we should suggest or we say that we need to have a restriction for Lana`i for x-amount – maybe even 15,000 as the max. If you look at the stores now and I don't know if Mike knows the total square footage of the store – probably 5,000 to 7,000 square feet. And maybe we can use another 3,000 – 10,000 for grocery. I think we should just do at least maybe 15,000 maximum, no matter what. Whether it be grocery or a mix. And my question would be though, Joe, that 90,000 for maximum for, that you have now, if it's two story, it's a total 90,000? It's both floors?

Mr. Alueta: Correct. It's square footage, not footprint.

Mr. Endrina: Okay.

Mr. Alueta: Yeah. So it would be like a 45,000.

Mr. Endrina: Although I want to see still the small mom and pop stores here on Lana`i, it has to grow at some point. And I think we can limit it to that amount, and that should be sufficient.

Ms. Kaye: Another question I had was the Code also says in the Business Country District that you can have up to 35 feet height, but our community plan says that no building – this is the Jacaranda Square again – so remember that slipped through and at one point you guys said that you were trying to make them consistent with each other and that required a process and I just wondered where that is at this point in time?

Mr. Alueta: To answer your other question really quickly, there's no floor area ratio. Floor area ratio only comes in for – that but also as a conditional permit for hotels in the BC-T.

Ms. Kaye: So the 75% of the lot is –

Mr. Alueta: . . . (Inaudible. Did not speak into the microphone.) . . .

Ms. Colleen Suyama: To answer your question about the Jacaranda Square and the inconsistency. I went back to the Department, and in the Current Division, Clayton Yoshida as the Administrator was asked to assign someone in his division to go through the Design Guidelines and make the appropriate changes to the Design Guideline that reflect what the community plan has stated. That it shall be like one-story, and the guidelines reflect that change.

Ms. Kaye: But the County Code –

Ms. Suyama: Regardless of what the County Code states.

Ms. Kaye: It doesn't matter?

Ms. Suyama: It doesn't matter because the Code requires the Business Country Town Design Guidelines to be adopted. And with the change you still have to be in concert with the Code as well as the adopted guidelines. The problem was the adopted guidelines were never amended to reflect the community plan change.

Ms. Kaye: I just wanted to – I called actually a couple of retailers today and they came up with exactly the same numbers. They said they're running around five to seven and they would want no more 10. So I think your numbers are really reasonable.

Mr. Gima: Dwight you were initially opposed to the Resolution coming down. What do you think about the limitation on as Larry had suggested? Grab the mic.

Mr. Dwight Gamulo: Well, yeah, if you feel necessary to put some kind of restriction for Lana`i then yeah there should be something in there. How did you derive at 10,000 to 15,000 square feet? You know what the retail size of the area the store is at presently? Well between five and seven, so 15. Yeah, okay.

And far as the 90,000 – I guess I got a question about that – how big are like Wal-Mart and Home Depot and Lowe's now? Do you have any idea approximately?

Mr. Alueta: 138,000 to 142,000 square feet.

Ms. Kaye: And what the web-sites pointed out as you read through them is it's not just an impact of the store itself. There's a lot of space to them and the parking is almost, in some cases double, the footprint of the store – the parking space, so that's a lot of demand.

Mr. Gamulo: Are there an 90,000 foot Wal-Mart's, Target's or Home Depot's anywhere? Or they wouldn't go that small? In other words, would there be a superstore, a big box store, that small, 90,000 square feet?

Mr. Alueta: I really don't know. I can just tell you what the sizes are on Maui and I would assume that either Maui meets the standard or it would be smaller than the standard because given the limited population base that they're drawing from. I will tell you that the Safeway in Kihei is around 41,000 and that's like one of the biggest Safeway's in the State. So that gives you an idea of like how big 41,000. I mean if you can't get your head around 143,000. Just to give you an idea of 90,000, Safeway, if you've been there, in Kihei, is rather a massive supermarket, and that's 41,000.

Mr. Gamulo: So like if you – there wouldn't be any stores that could compete price wise with places like Wal-Mart and K-Mart, and Home Depot and Lowe's, if they were restricted to 90,000 square feet. There wouldn't or would there? I don't know.

Mr. Alueta: I don't know. Like I said, the only other stores that we've heard that are trying to come in were Target. And across the United States and across, I guess, the world you have your variation of those superstores. In Oregon it's Freddie's, Fred Myers and stuff like that. And you know in Michigan the same thing – the Fred Myers and some of those – and there's Kohl's. And some areas, they have the bigger –. In Europe, everyone has their variation of it. And so I think they're trying to get a grip of what we have here on Maui. And that's one of the concerns is that this would limit or preclude other superstores from entering and create a protective legislation to the existing big box stores. I just find it funny that you only really need two computer competition to be competitive. Because it was so funny that just shopping here on Lana`i that some of your stuff is cheaper. And just between the two stores there's only at 10 cents. One store is 10 cents cheaper on some things but for the most part, your products are cheaper than what get it at in Wailuku, which is amazing. So it's just competition varies.

Ms. Kaye: And one of the things that if you get to go to these sites that they gave us last month, what some of the communities are really fighting and this is typical legislation from those communities is not the superstores that are already in existence, but what they're calling super centers, which is double. They're over 200,000 square feet. And they put in – it's like a on-stop shopping and it has a real adverse impact on the rest of the retailers, the smaller retailers.

Mr. Gima: So procedurally let's say we're all in agreement that we want to put a 15,000 square foot cap for Lana`i, we would still have to vote on the Council's Resolution, and then add the Lana`i portion as comments? Is that how it's done procedurally?

Mr. Alueta: You could do that if you wanted to but you could also, I mean, if you wanted to be strong, your recommendation would be yes, we support the idea of superstore ban. We agree with the Planning Department with regards to how to manage that ban. And 90,000 may work for Maui as a whole, however, on Lana`i we would rather see, for Lana`i only, 15,000 or whatever number square foot ban. As well as you could recommend the tying in with the Business Country Town District which already exists, but you know, that may be another amendment you may want to look at during your community plan as well as your business country town to add it in. But for food for thought for now, in the Legislative side, is put the number in now for what you want to see for Lana`i.

Mr. Gima: Any other questions or thoughts from the Commissioners before we open it to public testimony? Okay, anybody wishing to testify? Ron and Pat. Okay, the mike is yours.

Mr. Fairfax “Pat” Reilly: Pat Reilly – resident. Again, this is – I’m a little confused as to what the final action will be because I’m hearing two things. One is a recommendation or comment, and then is there a vote? Or is it just comments? I would need to – you can explain it later.

One of the dangerous things for me is that apparently somebody is very fearful of these huge superstores. And so a piece of legislation has been drafted and put into numbers, square feet, square footage. But the square footage, you know, it’s like for the urban center on Maui, my reaction is let Maui decide what numbers they want. I can only think of Lana`i and when I think of that, I’m not sure I can wrap my head around certain square foot numbers. The basic concern I have is where is the final decision going to be made if Castle & Cooke or any property owner wants to build a store – I don’t care what you call it – or a business, and it’s so big. What controls – and I think Joe alluded to it – what controls that is the zoning ordinance, the Business Town Country Design Guidelines, but we already have experiences that things slip through. For me, I’d want to see it. You bring it here, we’ll decide if it meets our vision of what the community needs to be. There are at least two angles. One the economic prosperity of the community 20 years from now, and what will the community look like 20-years from now, and what kind of buildings you want to have. I mean there’s buildings, and then there’s what goes on in the buildings and how it helps the community in terms of employment, and cost of goods and services.

So for me, my comment would be – my comment is let’s just deal with Lana`i. Whatever Maui wants to do, let Maui do it because I can’t wrap my head around that. And there’s lot sizes and the ownership is completely different than Lana`i. When I look at the General Plan that you guys worked on and as the Community Plan comes up, if for example that piece of land were to be a large commercial enterprise, it would have to conform to

parking, parking sidewalks. That would take up a large plot of land by itself unless there was an exemption. Unless we did something in the town to exclude those rules. So you're trying to make a set of rules that owners of property are going to say, okay here are the set of rules and I can do this and this is the way I can do it, right? And if I were an owner, I'd want to know that in advance. What are the rules of the game because I want to invest some money and I want to go ahead and do it.

The question being is well if you just put a number in there, does that really control what's going to happen? It seems like there's very multiple levels of control. So I'm not against the number. I have no idea what the number should be. My vision for any lot that I'm aware of in the Business Country Town area of Lana`i City, should conform to what our vision is of those design guidelines and how it would fit into the city. And some of our stores here need to be renovated. That's clear. I don't know where the money is going to come from to do that. And we've heard Mr. Murdock say I'm sorry to see Lana`ians have to take the boat to Maui to go buy rice and bring back, and we should be able to do something here. So some things are in the works. And for us, the limit, if you said 90,000 for Lana`i, that would be monstrous. That would be, wow, we can build 90,000. I wouldn't want that. So if there's going to be an ordinance, I think you have to have a component for Lana`i, and you have to set a limit. But the real key for me is when that proposal comes up, does it ever get before the Planning Commission or does it go straight to the building department because they have the rights, the property, the zoning is in place, you guys will never see it. You won't have any comment to it. And maybe that's a comment I would like to see is that it comes before the Planning Commission at least to be reviewed. And I don't know what authority you can put in for that. But as far as local rule goes and fitting it into a community plan, it seems to be like the local Planning Commission should have a role. Thank you.

Mr. Gima: Questions for Pat? Okay Ron.

Mr. Ron McOmer: My name is Ron McOmer, resident of Lana`i. Let me enlighten you folks on some conversation I've had with David Murdock. He is definitely wants to re-build Richards on this side of the square. And when he does that, he's going to build it to his dimensions. Putting a restriction on it is good on the sides that he can do it. But my concern is this, in my conversation with David Murdock is that, if you do that, then you have to re-build Richards, Pine Isle and IFCC the same size he builds. No I'm saying, he can't build. I've said to him the concern is that if he builds a big superstore of his own, he'll run the other two stores out of business. And with all the modern equipment he'll have, all the refrigeration he'll have and everything else, he'll run the other two stores out of business. So my concern is and I think we need to discuss this, and we'll do it in the Community Plan also as we go through that process, is to make sure that if David Murdock

does that, that it's in like that he is going to. He says he has talked to Honda and he's also talked to Joannie about re-doing their stores. And I've talked to both of them and they said he hasn't said anything to them. So my concern is if he does do this and he wants to modernize Richards Shopping Center and bring it on this side of the square, he's going to have to do the same thing in the agreement that he re-build the other two stores. He owns the land. He owns all of it. The store owners don't own that land. But for them to have to stay in their antiquated refrigeration situation – walk in Joannie's store right now, she has no refrigeration hardly left at all, and they don't have the money to re-do it. And my concern is that you're going to run them out of business.

So whatever you folks do, I think it behooves all of us, even the ones on the Community Plan, and discuss this with the community and see what we would like to see as modernization of our stores and what size. Now whether you put 15,000 square feet or 10,000 square feet or whatever it is, I think there should be something in there that says that the land owner and it would be different if these parcels were owned by different people and they can do whatever they want, but they don't. They don't have that option. That's my concerns. And my conversation with David Murdock is adamant. Every time he comes he drives me around town and we come over here and I'm going to put a store right here, and I'm going to do this, and I'm going to move Pine Isle over to where Richards is, and I'm going to bring Joannie up to the front, and he hasn't said anything to either one of them about that. He's passed it through me, and I'm sure he does it through his corporate people. So as long as I'm having this conversation with him I'm going to pass that on to you folks. And it's not hidden stuff. He said that to me and he knows that I'll talk about it.

So to enlighten you folks, whatever your size is, it's an arbitrary size. We don't even know what he's even looking at. But when he does do it, I think that's when the discussion should be. What are you going to do when you re-build Mr. Murdock? But he did that in North Carolina and he ran out almost everyone of the local businesses out of their town. They now have people that never lived in Kannapolis, North Carolina before. They're all new people and all new merchants. So he has the tendency to do this. He may not do it personally, but his people that work for him do these crazy things that we see going on this island right now that he has no idea what's going on. So just take that as fact from his mouth. Whether that's a dream of his or not, it still is something he has discussed with me and he discusses with me every time he comes here. So be aware of that folks. Thank you.

Mr. Gima: Thank you Ron. Any questions for Ron? Mike you want to say anything from the Company's perspective since you're here?

Mr. Michael Schocket: My name is Michael Schocket. I am a resident of Lana`i. I've been a resident of Hawaii for 44 years, and I'm currently Vice-President of Castle & Cooke. And I agree with what Pat said. I think – I believe the community needs better facilities, much better commercial facilities and there will be redevelopment in the future. However, I do agree that any project that's planned should be brought first to the Planning Commission. And until the scope of a redevelopment is decided upon by Castle & Cooke, I think it would be premature to limit putting a size limit restrictions in place. Thank you.

Mr. Gima: Okay, any questions for Mike? Mike, I was wondering if the Company has any current plans for that lot behind Gifts with Aloha – that block? My understanding that The Highlights, their lease is not going to renewed because there's going to be some possible development there.

Mr. Schocket: I believe it would be premature to comment on that. And actually, any matters concerning leases would really be confidential between the leasee and the lessor.

Mr. Gima: The reason I asked is because we're considering square footage specifically for Lana`i, and if the Company is having some plans to develop that area or that whole block for that matter, it may help us kind of formulate some numbers or percentages based on what you guys plan to do. I mean, if you just wanting to put one or two stores or businesses there, I don't think it's as crucial. But if you're planning to use the whole block for – for a choice of a better term – strip mall, then that's something for us to consider even though it wouldn't really fall under what's being proposed here.

Mr. Schocket: I understand what you're saying. There is not a defined plan in place. There are ideas being tossed around. Again, what needs to be done is something consistent with the community and I think that would be the theme.

Ms. Kaye: Despite the good wishes that it would come before the Planning Commission, and the thought that the Company wouldn't develop anything that would be inconsistent, there is nothing in place to stop. Unless we put a size limitation, we could pretty much build out. You know, it's not just this Company, it's the future. I mean, this is not – I'm sorry, but we can't just go on promises that things would be consistent and might come before us. If we want to put a size limitation, now is the time to do it, to be consistent. I mean, we can do it with the Community Plan too, but this is a vehicle to say make a motion and say we agree with the Planning Department's simplification of . . . (Inaudible. Changed cassette tapes.) . . . it can limit it if it wants to, but Lana`i chooses to go with 15,000 square footage.

Mr. Alueta: That is correct, and it would just be another building limitation that we currently

have. Currently Lana`i specific control of it would be the development standards that I have outlined within the Business-Country Town District of Title 19 Ordinance, which applies to all of Maui County. And then you have your specific Design Guidelines. None of those design guidelines or zoning restrictions cover square footage, or a maximum square footage. And this would just set up another maximum square footage. And again, there is not even a floor area ratio for the Business-Country Town with regards to commercial districts. And again, it would be square footage that is run as a single-entity. So it doesn't preclude a 90,000 or large structure, but it's broken up into smaller retail spaces. This is just specifically for larger single unit operators.

Mr. Endrina: And could we also put in there, even though it's probably going to come before us, that we could actually see it when the application comes through? Or that we have some kind of review on that?

Mr. Alueta: You can put it. Again, the Department would not support that because what you're doing is you're stepping into an area that is more than an administrative function of the building permit phase. If it was an SMA or it triggers some kind of design variance then it would be. Because you're setting a limit, what is then your review? Just like any other building permit or any home coming in for, or any other business, it doesn't fall. There's no special trigger. Unless you establish a criteria within it such as no building shall be built – limitation shall be 10,000 square feet to 15,000 – any building built larger than 15,000 or larger than 10,000 square feet requires Planning Commission approval. You know what I mean? We're going again, the General Plan and a lot of the Community Plans call for the simplification of the County and government regulations, not the more complexity and adding more continued layers. I'd rather have a clear, concise law that can be easily administered rather than to continue to create this layer of permits.

Mr. Gima: So is anybody on the Commission oppose to having specific Lana`i language? And the next question would be agreeing on the square footage. I know you threw out 15,000. And after thinking about it, and let's say it was adopted, 15,000, and somebody felt a 15,000 store – like you said double the size of Richards – and I think that would have quite an impact on Pine Isle, Internationals and Richards. So I'm wondering should we set a specific square footage limitation or do we want to set a percentage increase? That the building can be no larger than 20% larger than the largest square footage.

Mr. Alueta: . . . (Inaudible) . . .

Mr. Gima: No, no, no, you set the base line as the businesses here as the base of the adoption. I'm just throwing it out. 15,000 is going to be a huge store relative to Lana`i standards.

Mr. Alueta: I think I remember. I don't know if it's planning folklore, but Hilo had a criteria that no building could be built taller than the tallest coconut tree. And I'm not sure if that's true or not, but that's what planning legend has – that be kind of one of those. I think that since you're trying to have a finite thing as oppose to a coconut tree that grows, I'd rather, if you're going to go down that line, I'd rather have you find out exactly what the square footage of that building is and then set the number above that, rather than try to come up with a number. I mean, out of vagueness, I'd rather say let's hammer down to what it is. And I think that I'd rather keep it simple, and just hopefully, you can up with a number. Again, Moloka`i struggled with the same thing, and so they just left it as, you know, Council recognized that we don't want this size for Moloka`i, and come up with and have a smaller number and this is the range that we talked about – for Moloka`i anyway. Because they batted it around and they couldn't get an agreement among them, and they only had six that day so it was very difficult for them to come up with a finite number. Again, I would encourage you to come up with – if you want a finite number for Lana`i, try to bat it around a little longer.

Ms. Beverly Zigmond: Mr. Chair, I think we have to have a number and I agree with Joe that we can't just say 20% of the biggest building right now because there's going to be some "puka" some place unless we say specifically including parking and everything, we need –. Yeah, we can't have any "pukas" because they'll take advantage of it.

Ms. Alberta de Jetley: Mr. Chair, I'd be totally opposed to setting a square footage requirement on any of the businesses in Lana`i because if you look specifically at Richards Shopping Center, Dale Richard Shopping Center, that was established in 1946. So it's been in the same size building for 62 years. We need to be thinking long-term. If you look at the present grocery store operations today, they're totally inadequate because they just do not have enough storage, they don't have enough refrigeration. I think it would remised of us to be talking about square footage without actually consulting the businesses. If you remember when they built the new Lana`i Police Station, they built it so that it could accommodate this community's needs for many more years to come. And for us to be setting square footage requirements when we really don't know what their business requirements and needs are would totally remised of this Commission.

Mr. Endrina: I think – I think though that we have to set something because even though if we don't – I mean there is just one land owner. And even though if that land owner decides to sell a piece of property, let's say an acre, there's still got to be some kind of a number. 10,000 - 15,000 square foot building or a business is quite big for Lana`i. And I think in the next 15 to 20 years, maybe that maximum will get met. But at least there's still a limit.

Ms. Zigmond: Alberta, I think it's unfortunate that you missed much of the previous conversation but I have to –. I can not not recommend a size limit because when you talk about businesses and what they need, I mean, are you talking Kerry Honda's needs or David Murdock's needs?

Ms. de Jetley: Mr. Chair, I think we as a Commission should talk to the businesses involved because also Pine Isle Market is severely under – they're working with severe limitations now because of the lack of their space. So for us to pull – and I'm really sorry I that I was delayed. I had another commitment in Honolulu which was a two-day strategic planning meeting. And I did notify staff that my flight would leaving Honolulu at 7:00 p.m., so I'm really sorry I'm delayed for this meeting, but I think we should consult the businesses first before we start pulling numbers out of the air and saying it should be this size or that size. We don't really know where they are now and what the future needs for this community will be.

Ms. Kaye: Actually part of the discussion you missed Alberta was we did – some of us did talk to some of the store owners and they did come up with a figure that they thought was reasonable for what they would want future growth to be. It what has been driving this discussion.

Ms. de Jetley: So Mr. Chair were these figures e-mailed to any of us? I've been away for two days so I haven't seen these figures. And are we doing now independent studies as Commissioners? Where some of us are purview to the information and others are not?

Mr. Gima: No, we're not doing independent studies, and Sally just shared the information this evening as reference for possible limitation on square footage.

Mr. McOmbler: . . . (Inaudible) . . .

Mr. Gima: Right, I haven't closed it yet. Go ahead Ron.

Mr. Alueta: Just for clarification Mr. Chair, I believe you did close public hearing at the last meeting. That's when you held it. This is a communication item and you're just taking public comments, so you don't really need to close anything. I'm just letting you know procedurally wise.

Mr. Gima: Okay. Thank you. All right, go ahead, last one.

Mr. McOmbler: He doesn't want me to speak?

Mr. Gima: No. You can provide public comments.

Mr. McOmer: He's from Maui. He doesn't live here. The other thing we have to look at too if you put a 15,000 square foot building on some of these lots, there's no parking. I mean there's a whole bunch of things that tie into this. Because once they do this, the same thing that happened to Jacaranda Square, they're going to make them widen the street, they're going to make them put curbs and gutters, they're going to cut the place down. And we're not getting any answers from the Company and what they're even thinking about. I'll find out what they're thinking about. I'll ask the right questions. But 15,000 square feet may not even be what they're talking about. It may be something entirely different, and we need to find that out first and see where that direction is. And I do believe we need to address this at the Community Plan level, and we're going to address it because it's going to be an intimate thing. If it's in the Community Plan, they're going to have to oblige by it. It would have to come back to the Planning Commission if it changes that. So I'm concerned that we don't even have any idea what Mr. Murdock is thinking about. I just know he's thinking about it, and my fault that I didn't ask him. I should've asked him in front of Harry and found out exactly what they're talking about. And I will do that the next time they're here. Thank you.

Mr. Gima: So Alberta, you're opposed to setting any type of square footage limitation for Lana`i primarily because you don't want to restrict business growth or business opportunities?

Ms. de Jetley: No, I'm looking at the long-term picture that if Richards and Pine Isles and International decide to increase the size of their facilities that they should be the ones to tell us how much space they need and what their requirements are because these buildings will be utilized for the next 50 years. And I'm afraid that if we put a square footage limitation on them that we are crippling their rights to do business and to provide for this community. At the present time if we don't have a barge on Thursday, these stores are operating with almost 75% to 80% turnover. They have no storage facilities in their businesses.

Mr. Gima: By not setting a limitation, what would you propose to handle let's say another business coming in and building a 30,000 square foot mom and pop store?

Ms. de Jetley: If another company decided to come in to Lana`i to do business in a 30,000 square foot store, then it would be their responsibility to acquire their building permits and to go through the planning process with this community. But it will be through public hearings and not through an arbitrary number that we set as Commissioners.

Mr. Gima: I think part of the discussion earlier was kind of what you were talking about – the viability of the businesses we have here already. And without putting a limitation, yeah, another business could come in, put in a 30,000 and really comprise the existing businesses right now. So I think we're looking at the impact it may have on current businesses and if a new business comes in. So I think that's where the limitation discussion evolved from. Because I hear what you're saying that you want the three mom and pops to be viable, and have the opportunity to be viable in the future, but by not putting a limitation, there is the possibility somebody could come in with 30,000 square foot store and possibly run or maybe two into the ground. What's your thoughts about that?

Ms. de Jetley: It's called competition. We'll end up with, if another business came into town and acquired a space, it would cause the existing businesses to tighten up their shifts and to give consumers more competitive prices. And if that happens that's called free trade.

Mr. Gima: Okay, any other thoughts, discussions, questions? Why don't we take a five minute recess and chew on this one.

(The Lana`i Planning Commission recessed at approximately 8:08 p.m., and reconvened at approximately 8:15 p.m.)

Mr. Gima: We're back in session. Okay, what do you guys want to do? Do you want to continue trying to nail down the Lana`i portion? Do you want to take care of the initial resolution first? What's everybody's preference?

Ms. Zigmond: We were going to make the motion before, I think regarding the overall proposal with the amendment for Lana`i. Isn't that what we were going to do? That's my suggestion.

Mr. Gima: Any other preferences?

Ms. de Jetley: Mr. Chair, for my benefit, please, could we have the motion read so that I know what motion is on the floor?

Mr. Gima: There is no motion on the floor. It's going to be hard to do what you said if we haven't nailed down the Lana`i portion yet. That's why I was wondering if you want to continue nailing down the Lana`i portion and deal with the Reso separate?

Mr. Endrina:(Inaudible)

Mr. Gima: Okay, we'll continue the Lana`i portion. So we left off where Alberta said –

correct me if I'm wrong – the basis for the position is because of free trade that we shouldn't restrict even if somebody comes over and puts in a 30,000 square foot store that competition would dictate what happens to the other stores. Is that pretty accurate?

Ms. de Jetley: What I think I'd like to do is I'd like to defer this and ask the present businesses if they would like to give testimony before us before we try to make any kind of decision on space. Like if we, our staff, can ask these three businesses, which are grocery businesses. And also you should also consider Sergio's because Sergio's is also now a general grocer. If they would like to come before us to present testimony as to what they think their size requirements maybe, not just next year or five years from now, but what they envision in this community 20-years from now or 25-years from now, so that we're protecting into the future and it would be economically viable for them to invest in these new buildings.

Ms. Kaye: And I think that that would probably just delay the inevitable. This discussion started with view plains and environmental impacts, and size and scale, and I don't think Larry's suggestion of 15,000 square feet which would be pretty much three times any thing a retailer has here now is unreasonable. A compromise, although you don't like to idea, would be to add the caviat that anybody that wanted to do more than that could apply through the Planning Commission to do so. But I think pegging the future to the three existing stores now is very limited. We don't know what's going to happen with this Company in 20-years. We don't know if land could get sold next week, an acre as you pointed out, somebody could buy and acre and put 30,000 square feet in if they wanted to. And if we have an opportunity to, in post scale, this would be the time to do it.

Mr. Alueta: If I may Mr. Chair? As always I say when I come before you, I view the laws as very organic and that they change in time. And just because you put something down in the law, you come back and review it. And if it doesn't work, you know, if one of these businesses say hey, you know what that 15,000 is too small or whatever number you say because I have future plans, there can be a change in law because you're making it specific to Lana`i. You could always have your Council Member make a Resolution to eliminate that condition and do another Resolution. We try to make, to review the laws – like I say, we review it and make changes toward how the community wishes. That's why you have the Community Plan for, and that's how some of these laws get initiated or the majority of it. Don't feel that once you've set a number that, that number is fixed in stone because it's not. It's just fixed on a piece of paper. Until some new legislative body comes and changes it, it's the law of the land.

Mr. Gima: Any other comments? I'm just wondering your proposal about deferring and asking the three mom and pops to present testimony. I'm just wondering though, even if

they did, let's say Kerry comes over and says yeah I really want to have an extra 5,000 square feet of retail space. I'm not sure if this action would be the limiting factor. I think the way the businesses run on leases and the amount of retail acreage is more than what we can factor than Legislation. What do you think?

Ms. de Jetley: I'd like to see this deferred and ask for a public hearing on this matter so that it will give Castle & Cooke and Richards Market, it will give Pine Isle Market, it will give Sergio and International time to get some figures together so that we can hear what it is that they want and we can hear also what the community wants. The way that the stores have changed their business mix has been substantial in the last five-years. So I want to give them a shot at being successful in the future. We want to see more fresh produce in the store. We want to see more refrigerated products in the store. We have a new mix in our community and if the stores have an opportunity to tap into this new mix and be really successful if we don't throw up barriers in front of them. So we should be getting this information from them and from the public rather than us sitting here and saying this is what we want. Am I not what everybody else wants?

Ms. Zigmond: Can we just see where everybody is at on that if we all agree on a deferral or not?

Mr. Gima: I mean, we've deferred once. We've had public testimony once already. So the public has had two opportunities to comment on this already.

Ms. de Jetley: But they've commented on the 90,000, the original resolution which was to ban big box stores.

Mr. Gima: True.

Ms. de Jetley: Big box stores was what we were all talking about –

Mr. Gima: Correct.

Ms. de Jetley: – and what the resolution was about. So I'm not asking to defer the big box issue. I'm asking us to defer setting an arbitrary limit on Lana`i of 15,000. Without hearing from the retailers that are doing business here. And I see Mike Schocket here representing Castle & Cooke, but I don't see Kerry Honda and I don't see the Dela Cruz family and I don't see Sergio's. So I'd like to hear what they think their needs are going to be in 10 years, and in 15 years, and in 20 years. We don't know. We need to provide them an opportunity to give public testimony before us rather than just saying we're going to do a 15,000. And if you want to expand your business here, you can do 15,000 square

feet. It's not enough. It's not big enough.

Mr. Gima: But what I was trying to point out is even if we set a 45,000 square foot limitation, I don't think that's what limiting them from expanding and improving their operations now. What's limiting the operations is there's not much room to expand is number one. Number two is because they're on leases, they don't want to put out the capital to improve because they're on leases. It has nothing to do with this pending legislation. Do you see what I'm saying? That if Kerry wanted to expand 5,000, where can he expand? He can only go up, and he can't. And does he want to spend \$80,000 to \$90,000 to expand 5,000 feet when he's on a lease?

Ms. de Jetley: We don't know and it's not our business. It's not our business to direct leases. It's not our business to tell them that they can or can't expand their business. It's not our business to tell them that we think that their lease is really junk and that they shouldn't be making any capital improvements. It's not our kuleana. It's theirs.

Mr. Gima: I'm not saying that we're directing that. I'm just saying that's the reality that even if Kerry wanted to expand today, it would be almost impossible for him to expand.

Ms. de Jetley: That's between Kerry and his landlord. It has nothing to do with our Commission.

Mr. Gima: Right. I agree with you. I agree with you. What I'm trying to say is the Planning Commission and the proposed Legislation is not the limiting factor for the businesses to improve or expand. That's all I'm saying. And you're right, we should not direct their business operation. We should not get in the middle of their leases. All I'm saying is the reality is if they wanted to expand to improve their operations to become more viable, they can't. The only thing I can think of if Kerry wants to go to 12,000 square feet is he has to move his operation. Joe?

Mr. Alueta: Nothing. Just waiting to see if there's a motion and then that's the only way you're going to get any determination is if someone puts a number out, then you vote on it and see if it flies.

Ms. Kaye: All right. All right. Let's make a motion. Let's make a motion, and see where we all stand. I move that we recommend to County Council that the Ordinance as written should be simplified per the Planning Department's recommendations to limit it to size and that we have little comment on whether they want to limit it to 90,000 square feet. But Lana`i would prefer to see a 15,000 square foot limitation.

Mr. Alueta: And also put within the various business districts.

Ms. Kaye: Right.

Mr. Endrina: . . .(Inaudible) . . .

Mr. Gima: Okay, it's been moved by Commissioner Kaye, and seconded by Commissioner Endrina – I don't want to repeat the whole motion – it's on record correct?

Mr. Alueta: Sorry. Basically you're going to go with the Department's recommendations with regards to keeping it a square footage and putting it throughout the Code to make it clearer for people to know what the limitations are of a superstore. Lana`i wants to see the limitation further defined as 15,000 for Lana`i. You don't have a comment as far as the 90,000 but it should be square footage as far as for Maui in itself.

Mr. Gima: Thank you Joe. Okay, any discussion on the motion? Okay, hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose?

Ms. de Jetley: Nay.

Mr. Gima: Okay, motion is carried. Thank you.

It was moved by Commissioner Sally Kaye and seconded by Commissioner Lawrence Endrina, then

VOTED: To support the Department's recommendation that the definition be limited to square footage, and that changes be noted in the Code. In addition, a 15,000 square foot limitation would be defined for superstores on Lana`i.

(Assenting: Commissioners L. Endrina, S. Kaye, B. Zigmond, M. Mano, S. Ruidas and D. Gamulo

Dissenting: Commissioner A. de Jetley

Excused: Commissioner J. Elliott)

D. COMMUNICATIONS

1. Comments on January 16, 2008 site inspection of the Lana`i Culture & Heritage Center.

Mr. Gima: Okay, we are on to – where's my agenda?

Mr. Alueta: Mr. Chair, just for your information, I did pass out that big box information. None of the other Commissioners got it and some of our staff never got it, so if none of you want that reading material, I'd be happy to haul it back to Maui to recycle and give it someone else who wants to spend time reading it. Sorry about that.

Mr. Gima: Thank you. Okay, we're onto Communications. #1, any comments, any reactions, response to today's site inspection at the Lana`i Cultural and Heritage Center? Well I thoroughly enjoyed it even having spent a bunch of time down there already. I mean Kepa has a lot of information. You can see the passion he has for the center and for this island, so I think we're very fortunate. Again, I think, it gives us a kind of a back drop of our island and our community when we make our decisions. Any comments from the staff? All right, we're onto #2, Pat Reilly's request that the Commission conduct a workshop to review the issues related to water on Lana`i, and I think we have a memo from Jeff right? I haven't read it yet, so –.

2. Pat Reilly's request that the Lana`i Planning Commission conduct a workshop to review the issues related to water on Lana`i.

The Lanai Planning Commission may discuss whether or not it wants to conduct such a workshop.

Ms. Suyama: Basically what Jeff is saying is that the Department is supportive if the Commission wants to seek more information to help them in making decisions. And we had suggested that if you want a workshop conducted on water resources, there are two methods you can do it. We can do it as one meeting of the Commission that's scheduled inviting all of these resource people to come to that meeting, or you can do it by individual agencies. In other words you would do it throughout the whole 2008 calendar of the Commission, having each agency – like the Water Department will come at one time, make their presentation; the Department of Land and Natural Resources, Commission of Water Resources, would come and make their presentation before the Commission; et cetera, et cetera. It would go down that route. The other thing that we're cautioning is that although we can invite these people to participate in a workshop before the Commission, we can not compel them to come. It's going to be on a voluntary basis of those invited invitee.

The only other thing the Department would want is that before we schedule, however you want to set up this information gathering for the Commission, that we get clarity as to what exactly does the Commission expect from all these resource people so that when we write to them, they will know how to tailor their presentation before you. So, in other words, if we invite the Water Department, what exactly do you expect from the Water Department? What do you expect from the Water Resources Commission? On the Commission on Water Resources? Et cetera. So that way, at least they know what they're going to be preparing for you and what exactly are the information that you're trying to seek from all these individuals that are going to be participating.

Mr. Gima: Sure, go ahead Pat.

Mr. Reilly: Pat Reilly. My proposal is kind of in align with what Colleen said. My idea was to develop a curriculum. I would think that a one time shot would just be too much – overwhelming. The purpose behind this is because you will have to review permits, and because of the trend to say, the permit has to be related to availability of water. The more you know about water on Lana`i and how it's produced, and its volume capacity, then the better able all of you as a team are on kind of the same level of information. My preference was to start with Lana`i Water Company. That is the essence of what goes on in this island. And as the fundamental document which is maybe a little esoteric, you start with the periodic water plan. I think the 13th period is just about ready to finish. Therefore you're going to have the full data for the 13 periods. You're going to have all the wells. And those three sheets of paper can generate a lot of questions. Once you get a map of Lana`i in front of you about where the water is coming from, what wells are pumping, what's the total capacity of those wells, what's the basic transmissions systems. And then the next level is up, of course, are the Lana`i Advisory Committee in conjunction with the Maui Water Department in the developing the water use and development plan for the next 20-years.

So that was my idea – to start with right here on Lana`i. Have the Lana`i Water Company show you where the water is coming from – you already know where the wells are – to help you read that and then gain layers of meaning as to why those figures are so important. And 20 years from now, when this build out happens and you hit the limit of water, hopefully there's some careful planning as to what's going to happen to development because it's going to happen. I mean that's clear so I say start simple and work towards the complexity. Thank you very much.

Ms. Kaye: I wanted to – I sent an email to Corporation Counsel about the provisions of the water availability Bill that County Council signed. And I know you probably haven't had a chance to look at it, but I wonder if there would be a way to proceed so that you could give us an opinion on how this law – once the Mayor signs it – will apply to Lana`i –

development on Lana`i.

Mr. James Giroux: Like I was going to say, my understanding is that the Mayor did sign it fairly recently. I know the Planning Department is going to be asking us for guidance as far as how they're going to be applying the law. I haven't had a chance to thoroughly look through it. I know that it went through quite a lot of last minute changes. I was tracking it earlier on and when I came back from my vacation, I understood that when it passed out of Council there was some major changes. So I haven't had a chance to look at it, and usually that's the critical parts: where are the triggers? What's the applicability? At what point in development does the criteria kick in? And that's really the huge thing and that's what we've been dealing with a lot of these new – what we call – as far as the impact type of ordinances that have been going through Council. You have a traffic impact fee, the housing fee. A lot of times, as the attorneys, we kind of have to look at it after we have something to apply it to because that's when the real – the rubber hits the road – and we need to have a definite projects in front of us. As far as Corporation Counsel, it's hard for us to hypothetically look at how would this apply to development in general. I could – what we could do is just have the Bill passed out to us, just to the Committee, so you know the exact wordings, and we could look at the Bill on its face – just the language on its face and see basically what are the components of that Bill. But the Planning Department really would be tasked with looking at how they're going to apply that Bill to specific permits, or zoning's Special Use Permits – I guess, permits coming out of the SMA area. We've got Project Districts. We've got a lot type of different forms of entitlements that we would have to look at and see where would be the trigger and how this water Bill would apply to those types of projects.

Ms. Kaye: Maybe I'm thinking this would be too simple. I know because I've always been very confused where the various states of the Project District areas are in development. I asked for this subdivision file number, and I got this little rift, and I don't even know what to do with it. But I assume that now that this Bill applies, that each of these subject areas would – I don't know what stage their at – and you're right, what I'm concerned about is the changes – the last minute changes because I thought it was pretty straight forward at first, but now the changes to some of those provisions –. So is it that difficult then to apply that to the little bit of development that's ongoing right now on Lana`i? I guess it's my question.

Mr. Giroux: What I would have to do is just look at the face of the Bill and look at the different sections and see where we're at as far as what projects are coming before us. I think sooner or later – and hopefully sooner – we would have that information and hopefully it would be part of the reports coming out of the Planning Department. As far as what Bill or what zoning, what permits – whatever review you're doing, the Department would do a review of it as far as how they're going to deal with the different types of

entitlements and how the Water Bill relates to those entitlements.

Mr. Gima: Sally, were you hoping that this new Bill would be part of this workshop?

Ms. Kaye: Yes. . . (Inaudible) . . .

Mr. Gima: What about the rest of the Commissioners in terms of what you would like to see in the workshop? What information do you need? Do you need a workshop? Because I agree with Colleen, it's going to be important to let the presenters know what specific information. Because as this body, I don't think we need specific information – let's say the Lana`i Water Advisory Committee deals with in their meetings. It may be good to have background information or know where to access that information. But for the purposes of the meeting, I think we're going to need information from the different water agencies that will help us make better decisions.

I know Pat had suggested one agency per meeting. I differ on that. I would rather have County Water Department, Lana`i Water Advisory Committee, Lana`i Water Company so that we can get perspective from different entities.

Ms. Kaye: Can we make that one entire meeting, assuming they agree to come?

Ms. Suyama: . . . (Inaudible. Did not speak into the microphone.) . . . Just for you folks, in terms of scheduling, the February meeting you already have a public hearing matter. March, we're looking at some SMA changes that you have requested to be put on as a public hearing matter. And in April is generally your orientation meeting because in April you'll have new Commission members, hopefully appointed by then. And that's when the change over. And usually in the first meeting in April, we do orientation to the Commission as a whole. So unless you want to use – an orientation is usually a very comprehensive long meeting just to over all of your responsibilities are. So I would say that probably the earliest that we would be able to schedule something would be somewhere in your May meeting.

Mr. Gima: We're having a Lana`i Water Advisory Committee meeting next Friday so maybe we can discuss at that meeting about coordinating our May meeting with the Planning Commission date, and that way Department of Water Supply and Commission on Water Resource Management can come and attend two meetings at the same time. So will you remind me next Friday?

Mr. McOmber: . . . (Inaudible. Did not speak into the microphone.) . . .

Mr. Gima: 25th. Yeah.

Ms. Kaye: Can I ask if it would be inappropriate to also invite someone from the USGS, like Gordon Tribble who's done water studies on Maui and Moloka`i to see what kind of services?

Ms. Suyama: We'll make whatever necessary arrangements as to the resource people that the Commission wants to hear from.

Mr. Gima: So since the meeting probably won't happen till May, can you start jotting down some things you want presented at the meeting and get the information to Department by what date?

Ms. Suyama: The earlier the better because you know that way it would give at least the agencies time to do the coordination, to get to a May meeting. So we'll set the specific – the May meeting is specific date to get the resource people there. I would say that for the Department, I would like to send a letter out – this is already January 16th – by the beginning of February. So if I could get your comments as to what specific items you want these resource people to address before you, then at least I can start drafting the letters to go out in early February. And that gives them at least – you're talking about three to four months for them to prepare. . . . (Inaudible. Changed cassette tapes.) . . .

Mr. Gima: Thank you Colleen. Anything else on the proposed or the upcoming workshop? All right, #3, discussion on the processing of SMA Exemptions. Joe?

3. Discussion on the processing of SMA exemptions.

The Commission may look to direct staff to produce draft legislation regarding amending the current process. (Previously discussed at the October 3, 2007, November 21, 2007, and December 19, 2007 meetings.)

Mr. Alueta: So you had asked for an amendment similar to Moloka`i with regards to the processing of SMA Exemptions. We have sent it out for agency comments. I was hoping to get it on the February meeting but I missed that deadline so we will put it on the first meeting, mid-March, and we'll go from there. And you're familiar with the language because it was passed out to you earlier with the one that's on Moloka`i. The only difference would be that it would be for Lana`i.

Ms. Kaye: I'm sorry. You said you missed the deadline, so it won't be in February?

Mr. Alueta: Yeah, originally, I believe I told you back in December I was shooting for the February date and it was out for agency comments. I hadn't gotten it at that time, but I was just anticipating I would get them all in and it's relatively straight forward change – it was just a formality – pretty much to send it for agency comments. So I was hoping to get it back to you earlier. But they have a previously scheduled item that was more pressing, it's been pushed back to the March meeting. That's what she just told you.

Ms. Kaye: What is?

Mr. Alueta: I'm just confirming what she just told you of when it would be on.

Ms. Kaye: Okay. That's for public hearing?

Mr. Alueta: For the public hearing and action.

Ms. Kaye: So the comment part is drawing to a close.

Mr. Alueta: Yes.

Ms. Kaye: Then it will be public hearing and then it goes to Council?

Mr. Alueta: No. Mayor.

Ms. Kaye: Mayor. And then?

Mr. Alueta: Yes. No Council.

Ms. Kaye: Okay, Mayor approves it and then it's a done deal?

Mr. Alueta: Yes it is. Yes.

Ms. Kaye: So –

Mr. Alueta: And then it gets filed with Clerks and it take 10 days after the filing with the Clerk Office.

Ms. Kaye: So we're looking some time Spring possibly that this –

Mr. Alueta: Yeah.

E. DIRECTOR’S REPORT

1. Commission Chair’s request to discuss the following:

The feasibility of changing the zoning of the remaining 65 acres of land donated to the County of Maui by Castle & Cooke for affordable housing. The change would go from its current zoning to the appropriate type of zoning that would make the land ready to be improved.

Mr. Gima: Okay, on to the Director’s Report. #1, regarding the 65 acres. I had e-mailed – the e-mail that I talked about at the last meeting – to Leilani, and then she got the e-mail out to everyone. Did you guys get the e-mail or is this the first time you’re reading the e-mail?

Ms. Kaye: I got it.

Mr. Gima: You got it. Okay. So I haven’t heard anything since that e-mail from Brenda Lowery.

Ms. Kaye: If I could just add a little bit. At the last meeting, this whole 65 acre development got tied into housing study potential, getting data about it and I offered to try and contact the SMS people that did the State wide housing study to see if Lana`i data could be extracted for that. That’s what the Housing Director suggested. And actually the guy wrote me back. I’m going to send everybody this e-mail/communication tomorrow I got the last of it today or yesterday. There is in fact a data tab on that 900 page study that brings, that extracts information island by island which will be really valuable for Lana`i and help us to tell the Housing people what it is we want to know, and I can’t open the tab. So I called the guy back from SMS and he can’t open it either. And he said – Colleen I’m so sorry – that somebody at the County of Maui, Department of Housing should be able to get the information. We’re coming full circle here. He suggested that they already had the island specific information to hand. So all I’m going to say tonight is that I will send you this e-mail tomorrow and you can maybe pass it along and see how we can extract this information.

Ms. Suyama: I can pass it along to the Director of the Department of Housing and Human Concerns. I did talk to her today because I did send her a letter dated December 24th, asking about the housing workshop that you had requested originally, and sending her additional information to prepare for it. Her problem right now is that the Housing Administrator originally retired in the Summer 2007. They had a temporary Housing

Administrator who recently left the County. So right now her dilemma is that the person that would be responsible for setting up the workshop and getting the information to you – there is no person in that position right now. So until she can fill her administrator's position, she can't commit, right now, to a definitive date as to when they can conduct the workshop that you had requested.

Your request for the additional information, that can be transmitted to the Housing – to the Director of Housing and Human Concerns and hopefully they have staff people that have access to the information and can extract the information for you.

Ms. Kaye: Okay, cause really, this man that did this study said I should have been able to get it on-line myself which would have solved everybody's problems. And he said, he wrote back and said I can't either, I'm going to let them know something is wrong.

Ms. Suyama: Okay.

Ms. Kaye: And perhaps this will fix itself down the line. I'm just being mindful that we have been not as forthcoming in setting parameters for this workshop. And I'm trying to work on that so that we're not frustrating your side of the table as well. So I'm thinking that's okay, if she can't come right away, at least – if we can get some data we can start thinking about where the holes are –

Ms. Suyama: Okay.

Ms. Kaye: – for Lana`i.

Ms. Suyama: So I'll refer your e-mail – once you send it to me – I'll refer it to Vanessa Medeiros.

Ms. Kaye: Okay.

2. Open Lana`i Applications Report.

Mr. Gima: Okay, any other comments or requests regarding the 65 acres and housing study? Okay, moving on to open Lana`i applications. We have that usual report and also a response from Colleen from our last meeting.

Ms. Suyama: At your last meeting on December 19th you had several questions that were posed to Mr. Yoshida. I put the response back into a memorandum. And one was the request for comment that was dated 2007/0054. That's basically a request from the

Department of Land and Natural Resources to comment on a Conservation District Use application to install a temporary meteorological tower in the conservation district. And we basically said we had no comments to the Department.

The second item was an Environmental Assessment Comment request which is an early consultation for resident by Greg Brown for property on Keamoku Road. We did attach a map. It's not a very good map, but if you look at the map, it's that triangle piece that's shown along the shoreline where Mr. Brown is proposing to build a house. And this is also within the State Conservation District, and they are required with conservation lands to do an environmental assessment which is approved by the Board of Land and Natural Resources. And our only involvement is in the terms of them asking for SMA compliance. But so far no application has been filed with the Department. And I did attach what the Department's preliminary comments were dated August 15, 2007.

Item #3 and #4 dealt with building permits for the Phillip Lacerte residence, and one was their retaining wall and one was a residence. Both applications were completed and approved by the Department of Public Works, Development Services Administration. And you know, in terms of building permits, the Department of Planning is only a reviewing agency. It's not the approving agency. So we did our review based upon the zoning criteria in the Code. And I think that addresses your original questions from December 19th.

Mr. Gima: Thanks Colleen.

Ms. Kaye: I just have a quick question Colleen. For the open projects report last time that we asked a question about, the very first one, it's like off the list that you gave us this time. And in the past we've seen them stay on, and on, and on, and on, but it's not here. So I'm wondering why that is?

Ms. Suyama: The only things that are suppose to come on your list are open applications, and they're only as good as the person working on it taking it off the list by closing up the application. And some times that's why it's on, and on, and on. And usually when I find those, I usually go back to the Department, find out who's the planner responsible or the staff person responsible, and request that they close up the application if it's completed.

Ms. Kaye: So this request from the DLNR is closed now?

Ms. Suyama: Right because our responsibility is closed.

Ms. Kaye: Okay. I get it. Okay.

Mr. Gima: So that first one, the sun power, is that solar farm project?

Ms. Suyama: That is correct.

- 3. February 20, 2008 public hearing on the Phase 2 Project District application by Castle & Cooke Resorts, LLC for the Island Club Fitness at The Challenge at Manele project, 6:00 p.m., at Lana`i High & Elementary School Cafeteria.**

Mr. Gima: Okay, any other questions/comments on the report? #3 is the upcoming public hearing.

Ms. Suyama: Right. It's to inform the Commission that at your next public hearing, your meeting, you will have a public hearing for the Phase 2 Project District application by Castle & Cooke, and it's for their Island Club Fitness at the Challenge at Manele. So this would be coming to you for public hearing at 6:00 p.m. on February 20th.

F. NEXT REGULAR MEETING DATE: February 20, 2008

G. ADJOURNMENT

Mr. Gima: Everybody is going to be able to make the meeting? Okay. It's now 8:57 p.m.. It's not even 9:00 p.m.. County folks can get home a little earlier tonight. Okay, thank you everybody and we'll see you next month.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:57 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE:

PRESENT:

Reynold “Butch” Gima, Chair
Lawrence Endrina, Vice-Chair
Dwight Gamulo
Beverly Zigmond
Sally Kaye
Matthew Mano
Alberta de Jetley (from 7:58 p.m.)
Stanley Ruidas

EXCUSED:

James Elliott

OTHER:

Colleen Suyama, Deputy, Department of Planning
Joseph Alueta, Administrative Planning Officer
James Giroux, Deputy, Department of Corporation Counsel