

**LANA`I PLANNING COMMISSION
MINUTES - REGULAR MEETING
OCTOBER 17, 2007**

Approved 11-21-07

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Chair Reynold "Butch" Gima at approximately 6:04 p.m., Wednesday, October 17, 2007, in the Lana`i High & Elementary School Cafeteria, 555 Fraser Avenue, Lana`i City, Hawaii.

B. APPROVAL OF THE MINUTES OF SEPTEMBER 19, 2007

Mr. Reynold Gima: Good evening everyone. I'd like to call to order the October 17, 2007 meeting of the Lana`i Planning Commission. Let the record show that we have quorum with Commissioners Mano, Zigmond, Kaye, Elliott, de Jetley, Gamulo and Gima present. At this time, I'll entertain a motion to approve the minutes of September 19, 2007.

Ms. Beverly Zigmond: I move that we approve the minutes of September 19, 2007.

Mr. Dwight Gamulo: I second.

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

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried.

**It was moved by Commissioner Beverly Zigmond, seconded by
Commissioner Dwight Gamulo, then unanimously**

VOTED: To approve the minutes of September 19, 2007.

C. UNFINISHED BUSINESS

- 1. MR. JEFFREY S. HUNT, AICP, Planning Director, transmitting the 2030 Countywide Policy Plan (Plan) to the Lana`i Planning Commission pursuant to the provisions of Chapter 2.80B of the Maui County Code. The Lana`i Planning Commission may review and provide recommendations on Section IV (Goals, Objectives, & Policies) of the Plan, which was revised to reflect the recommendations of the Maui, Molokai and Lana`i General Plan Advisory Committees. Emphasis will**

be placed on the revised Improve Physical Infrastructure, Improve Parks and Public Facilities, and Diversify Transportation Options Sections.

The Maui, Lana`i, and Molokai's Planning Commissions are being asked to provide recommendations and proposed revisions to Section IV of the draft Countywide Policy Plan. The Planning Commissions have 120 days to complete their review, with the Lana`i Planning Commission's 120-day period beginning on September 5, 2007. (Plan was mailed previously. Commissioners: Please bring your copy. To view Section IV, (Goals, Objectives, & Policies) see Maui County website at: http://www.co.maui.hi.us/departments/Planning/pdf/Full_Directors_Report.pdf)

- a. Public Testimony**
- b. Action**

Mr. Gima: Let's see – before moving on to unfinished business – for the County, besides the GPAC stuff are any of the other agenda items under unfinished business and public hearing under time lines – any deadlines?

Ms. Colleen Suyama: Other than the GPAC, which the Commission has a deadline in which to get through the whole policy plan, the other items dealing with Lana`i Resort Company, there is no specific deadline. And for the proposed vacation rental Bills which is the Transient Vacation Rentals and Bed & Breakfast Bills, there is no time line for which to get through these. I'm sorry, 120-days. You do have a time line. So, it's 120-days after the public hearing, and tonight is the public hearing.

Mr. Gima: Okay. Thank you. All right, so let's move forward with the Countywide Policy Plan. And who will be –? Thank you.

Ms. Erin Wade: Thank you. Good evening. My name is Erin Wade. I'm filling in today for Simone Bosco, who is usually here. I think I met you the first time when we did the introduction of the Countywide Policy Plan. So I think where you left off was at Improve Physical Infrastructure, so that's where we would like to begin today. In terms of the order, depending on how far we get because I understand your agenda says that 7:00 p.m., you'll move to the next agenda item. So if we get through Physical Infrastructure, the next section will be Parks.

Simone filled me in a little bit about the progress that you've made, and she said by in large you all like to discuss the policies amongst yourselves – to start with the beginning with the goal and review the first objective section and then take a vote. So, we'll just be

here to assist you and rely on you for your discussion and contribution to the plan document. If there's anyone that needs materials related to this Physical Infrastructure section, please let us know.

Ms. Zigmond: On policy I-1-f, the word enable just is kind of wishy-washy to me, and I was hoping maybe we could put something stronger in there like maybe require – the use of reclaimed, gray, and brackish water for activities that do not require potable water.

Ms. Wade: I believe GPACs have that in at the beginning of our discussion, and then they determined that there will be cases where that could actually be cost prohibited the project that you would otherwise see as positive – as positive. So require and encourage – I can see how you'd want to use wording that was maybe more positive.

Ms. Zigmond: How about maybe required in exemplary cases where it would be extenuating circumstances or something like that. I don't know. Help me out.

Ms. Wade: When feasible? Require when feasible.

Ms. Sally Kaye: I had a comment on I-1-h – the County's land and ground water resources – I would think maybe systems within the County. So that if you take the County's out and say improve the management of water systems – so systems plural – so land and ground water resources within the County are not degraded.

Ms. Wade: I guess that makes a lot of sense.

Ms. Kaye: On the next one, I just wanted to ask, alternative to what? Alternative water source development – does that need to be flushed out on the local County plans or the Community Plan?

Ms. Wade: At this point, it's just alternative to the aquifer system that we have now. It could be catchment. It could desalinization. It could be any type of water source.

Ms. Kaye: Okay.

Ms. Wade: Is there anything else from I to I-1-k? If not, whenever you're ready, a motion would be appropriate.

Ms. Zigmond: I move that we accept objective I-1 and accompanying policies, I-1-a through I-1-k, as amended.

Mr. Gima: What about goal? Goal I?

Ms. Zigmond: And the goal.

Ms. Alberta de Jetley: I second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond and seconded by Commissioner de Jetley that we approve goal I and objective I-1 to k, and accompanying polices as amended. Any discussion? Hearing none, all in favor, please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay, motion is carried.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Goal I, Objective I-1 and its supporting policies as amended.

Ms. Zigmond: I have a question. I think I know I have an idea but I'd just like to make sure what "white goods" are?

Ms. Wade: White goods are large bulk items generally with some electronic function, like a stove is considered a white good, or a refrigerator. These are very difficult to dispose of.

Ms. Kaye: Actually, I wondered if we couldn't consider after vendors inserting "and owners disposing of these goods."

Ms. Wade: Could you give me the reference number for that?

Ms. Kaye: In I-2-c – encourage automobiles, comma, appliance and white good vendors and owners disposing of these goods to participate.

Ms. Wade: That's a great addition.

Ms. Kaye: For I-2-g, I wonder if we could think about adding promote – to promote and support.

Ms. Wade: Okay.

Ms. Zigmond: And it's just a typo, but I use to proof read for a living – I-2-d needs a ending

parenthesis.

Ms. Wade: Thank you very much. Parenthesis after grease. Is there anything else on the I-2 objective?

Mr. James Elliott: I would love to participate. I move that we adopt objective I-2 through I-2-g – did I say I-2-a – wait. I move that we approve objective I-2 and all the accompanying policies – that’s a great word – as amended.

Ms. Kaye: I actually had one more amendment. It’s a matter of grammar. I-2-b. Is it too late?

Ms. Wade: You can take a second and then you can amend it.

Ms. Kaye: I second.

Mr. Gima: Okay, it’s been moved by Commissioner Elliott and seconded by Commissioner Kaye that we approve objective I-2 and all the accompanying policies as amended. Any discussion?

Ms. Kaye: I have one more amendment – so sorry. I-2-b – after impact of, comma, and methods to reduce, comma.

Ms. Wade: I would think that’s a friendly amendment.

Mr. Gima: Okay, if there’s no further discussion, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Oppose? No? Okay, motion is carried.

Ms. Wade: I apologize. We just need to clarify. Does the motion maker accept the amendments? Okay, thank you.

It was moved by Commissioner James Elliott, seconded by Commissioner Sally Kaye, then unanimously

VOTED: To approve Objective I-2 and its supporting policies with amendments.

Ms. Wade: Okay I-3.

Ms. Kaye: Okay, moving right along. I-3, I think there's a typo. I think it should be self sufficient, not self-sufficiency.

Ms. Wade: Thank you.

Ms. Zigmond: On I-3-a, I really like the idea of rewarding energy efficiency but do we need to say how? I don't know, it just seemed a little bit nebulous.

Ms. Wade: I think it's intentionally nebulous here, and I don't know if Simone has talked to you about the implementing actions sections. But I think that's where a lot of times you can define how most of this will get accomplished in the implementing section. So if you have ideas, though, you would want to forward those to us – we're happy to transfer those into that portion of the document. Anything else on the I-3 objective?

Mr. Elliott: I move that we adopt objective I-3 and the accompanying policies with the amendments.

Ms. de Jetley: I second.

Mr. Gima: Okay, it's been moved by Commissioner Elliott, and seconded by Commissioner de Jetley that we approve objective I-3 and all the accompanying policies as amended. Any discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

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

**It was moved by Commissioner James Elliott, seconded by
Commissioner Alberta de Jetley, then unanimously**

**VOTED: To approve Objective I-3 and its supporting policies with
amendments.**

Ms. Wade: I-4 – this is a short one.

Mr. Gima: Can you explain I-4-a please?

Ms. Wade: Yes. Generally it is prudent policy to locate new development where we have infrastructure capacity. Meaning if there's a waste water treatment plant that isn't at its capacity as oppose to building out – you build where that treatment plant could service the new development, as oppose to building outside of the service and building and entirely

new treatment plant. It's just more cost effective and saves time and energy.

Ms. de Jetley: Mr. Chair? I just have a comment on – just something for thought – on I-4-c – where it says including the expansion of existing towns. What we've seen on Maui is towns like Kahului and Wailuku becoming one big suburban area. And it might be better to create new small towns and villages rather than to continue letting towns blend into each other. Like Pukalani and Makawao are on the verge now of being blended together. It's just something for thought.

Ms. Wade: Do you think the policy would have – because it has or the creation of new towns would allow for that then? They would allow to choose between those two actions. I think, either to grow the existing town, or like you're saying, stop at a certain point so it doesn't blend into another and then develop a new town instead of sprawling into the adjacent town?

Ms. de Jetley: I don't know how we can stop this sprawl. I personally don't like it because it's happening all over Maui.

Mr. Gima: Won't this be addressed in the Community Plan discussions in terms of the urban growth boundaries?

Ms. Wade: Yes. Thank you. For Maui, Maui is required to have urban growth boundaries in their Island Plan, and it will define specific points at which no urban expansion should occur beyond. I think you've also completed your review of the Land Use section of this document, and that also discusses maintaining green belts and open space in between communities so that they can keep a distinct buffer between each town. I think you already approved that statement.

Ms. de Jetley: I move that we accept objective I-4 and its accompanying amendments.

Mr. Matthew Mano: Second.

Mr. Gima: It's been moved by Commissioner de Jetley and seconded by Commissioner Mano that we approve objective I-4 and all accompanying policies with amendments. Any further discussion? Hearing none, all in favor raise your right hand.

Commission Member: *(Hands raised.)*

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

It was moved by Commissioner Alberta de Jetley, seconded by

Commissioner Matthew Mano, then unanimously

VOTED: To approve Objective I-4 and its supporting policies with amendments.

Ms. Zigmond: Could you please speak to I-5-g? I'm definitely all about social justice and equity, but I would like some explanation on it in this regards please.

Ms. Wade: The reason –. I'll give you an example first. Sometimes in infrastructure planning related to transient and other services that are used more by a low income bracket than by your average person will be given priority so that certain population groups are able to be served. Because if they are not subsidized or programmed first, they wouldn't be programmed at all. So that social justice statement in there is really just to say we value that, we value serving the community as a whole even those that are either under represented or lower income, and then taking that into account in our infrastructure planning.

Ms. Kaye: I had a question about I-5-e. When infrastructure – this would not apply to private owner?

Ms. Wade: This would not apply to what?

Ms. Kaye: Private owners – as they develop infrastructure?

Ms. Wade: You know, it really could. I think you could expand that to include it because certainly we have private developers building transmissions from sources of water and other things that do need to be coordinated, so I think you could include that and it would still make sense.

Ms. Kaye: Where would you put it? By private owners and –?

Ms. Wade: And by private owners, I suppose we could say.

Ms. Kaye: And private developers.

Ms. Wade: Yeah. And if we added ensure a strong linkage and coordination between infrastructure planning and infrastructure budgeting at all levels of government and private owners.

Mr. Elliott: Yeah. After budgeting – infrastructure budgeting by private developers and all levels of government.

Ms. Wade: Okay. Add private developers after budgeting and all of the development.

Ms. Kaye: Can I ask a question about I-5-h? Is there only one zone in the State for tsunamis? Or would like each island have its own zone? Is that a State designation? If it's not, I would make it plural.

Ms. Wade: The tsunami inundation zone is defined by a composite of groups – civil defense, State – yeah, exactly – and insurance companies.

Mr. Gima: Can you explain how – under I-5-b – about the pro-rata share of local and regional infrastructure. I mean how does that work?

Ms. Wade: This is kind of a complex topic, but it does talk about determining through a formula the specific amount of contribution a developer should pay in terms of what they're going – in ways they're going to affect a community. So as an example, let's say that a new development is built and a regional road is required to be able to service that. Well that regional road connection might not be used entirely by just the new development. It's going to service the whole community now. But because this sort of triggered the need for it, they should have to pay in a certain amount. And then this formula for pro-rata share is set in determining how that could happen. It's kind of a planning jargon for paying their fair share towards something.

Mr. Gima: Is that practice in place?

Ms. Wade: No, it is not. It is not in place at this time.

Mr. Gima: Because? I mean I heard of this pro-rata share. I've seen language and so it's kind surprising that this practice is not in place.

Mr. James Giroux: As far as development law, a lot of times you look at things that are called exactions or things that are basically the government wants the developer to pay for. And if it's not distributed equally amongst all of the developers, then they start getting into constitutional issues. So what the government has to do is they have to do a study, say what needs to be improved, look at the foreseeable users and develop a formula that's fair, that has an even distribution amongst all the users. So the government has to do that pro-actively before they can start asking for these contributions. So what this would do is it would basically encourage the government to start doing that – do the study, get a number and start applying that number fairly amongst all people. So if you look at traffic, water, sewage – all of these things that need some type of emphasis coming from the government in order to get started so that it can be distributed through an ordinance. So basically the government, you know, kind of tries to do it in it's own ad-hoc way. But until

it does it in a uniform way through an ordinance that describes that process, you're always going to be opened to legal challenges.

Mr. Gima: Does this pro-rata share of infrastructure cost include schools? Parks?

Mr. Giroux: Well again, anything that is foreseeable as an impact by a development – so housing, school, roads, you know, water, sewer – anything that when you build something it causes an impact. You can require some type of fee to off-set that impact. But you need to go through a process to do that. The government needs to establish a fair process.

Mr. Gima: So an impact such as the – say the Manele Project District impact on our beach?

Mr. Giroux: Like I said, it's something that people have to agree on. Let's say you build something and it caused all the sand to disappear, and then the government says hey, we want people to start bringing the sand back. Well, you'd have to look at the users and say, well, who caused it and who's going to make it work and what's it going to cost to distribute that cost amongst all the users? So you have to have nexus and then you have to have a proportionality test. And that's what it's saying. It's saying if you find an impact, that's your nexus. And then you got to find your pro-rata share – that would be your rough proportionality – distribute fairly.

Ms. Wade: Just as a comment. The American Institute of Certified Planners published a really good news letter on this topic last month. So if you'd like a copy, I'd be happy to make that for you and send it on your next packet.

Mr. Gima: So what we were just talking about affects I-5-i then?

Ms. Wade: It could, yes. It definitely could.

Mr. Giroux: Butch, just to make a comment on that is if you establish your pro-rata share, the government can actually take a CIP project and then cost it out because as the users come on they start paying off that bill so that's where you can try to get concurrency.

Ms. de Jetley: I move that we accept objective I-5 and its accompanying policies as amended.

Ms. Zigmund: Second.

Mr. Gima: Okay, it's been moved by Commissioner de Jetley and seconded by Commissioner Zigmund that approve objective I-5, all of its accompanying policies as

amended. Any further discussion? Hearing none, all in favor please raise your right hand. Motion carried. Thank you.

It was moved by Commissioner Alberta de Jetley, seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: To approve Objective I-5 and its supporting polices with amendments.

Ms. Wade: Thank you. The next section is Parks, and this is a short one. I'll give you a minute. So it would be section G through G-1-h.

Ms. Kaye: I have a question – G-1-a – protect access to public shoreline and mountain resources. Somehow that's got to include private owners because mountain resources on this island are not public.

Ms. Wade: Absolutely, it's intended. I think this statement is intended to apply to both public and private owners.

Ms. Kaye: Okay. Could we put that in there so it's clear somehow?

Ms. Wade: Sure.

Ms. Kaye: Public and private.

Ms. Wade: On public and private property?

Ms. Kaye: Yeah, that would be good. Thank you.

Ms. de Jetley: Mr. Chair, I have a question. The Lana`i Cemetery is that owned by Castle & Cooke, or who does it belong to?

Mr. Gima: I'm not sure, but I believe it is Castle & Cooke.

Ms. de Jetley: I have another question for staff. When you say to identify and reserve land – so most of the existing cemeteries on Maui are privately run. So is the County, by this, saying that they also want to get into the mortuary / cemetery business?

Ms. Wade: I would say not necessarily, but it leaves the door open in the event that we choose to do that. There are places that have public cemeteries. Maui currently does not, but we've heard it as a growing need. So there may be a necessity to do something like

that. Is there anything else for G through G-1-h?

Ms. Kaye: Yeah, I would like to ask that you folks consider putting in “but not limited to,” such as, but not limited to outrigger.

Ms. Wade: On G-1-h?

Ms. Kaye: Yeah.

Ms. Wade: But not limited to. Okay. Anything else for this section?

Mr. Elliott: I move we adopt Goal G and Objective G-1 with the accompanying policies as amended.

Ms. de Jetley: I second that.

Mr. Gima: Okay, it’s been moved by Commissioner Elliott, seconded by Commissioner de Jetley that we approve Goal G, Objective G-1 and its accompanying policies as amended. Any further discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay, motion is carried.

It was moved by Commissioner James Elliott, seconded by Commissioner Alberta de Jetley, then unanimously

VOTED: To approve Goal G, Objective G-1 and its supporting policies with amendments.

Ms. Wade: Okay, on to the second objective.

Ms. Kaye: Can you just tell me what a passive recreation facility is?

Ms. Wade: Yes, it’s one that doesn’t include sport facilities. It could be a walking trail or a community garden or something like that.

Mr. Gima: Is there any type of formula in terms of if there are x-amount of people in an area, there should be x-amount of park recreational facilities. Or if the city has x-amount square feet, there should be an accompanying percentage of recreational facilities?

Ms. Wade: Yes. The Maui Parks Department have their own formula that they use. There are national standards. Maui Parks is a little bit, actually, more generous than some of the national standards are. So, yes, it is a formula basis.

Ms. Kaye: Actually, I think the study that Colleen referred us all to – the State wide study – did by island the number of acreage in parks and who was meeting it and who was under. And I think Lana`i – it was one of the very few specific reference to Lana`i – we were like 39 acres under what we should be for park acreage based on population.

Ms. de Jetley: Mr. Chair, I move that we accept Objective G-2 and its accompanying policies as amended – we don't have any amendments – and its accompanying policies.

Mr. Elliott: Seconded.

Mr. Gima: Okay, it's been moved by Commissioner de Jetley, and seconded by Commissioner Elliott that we approve objective G-2 and all of its accompanying policies. Any further discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay, motion is carried.

**It was moved by Commissioner Alberta de Jetley, seconded by
Commissioner James Elliott, then unanimously**

**VOTED: To approve Objective G-2 and its supporting policies as
presented.**

Ms. Wade: Okay. Last objective is G-3.

Ms. Kaye: Easy one first – G-3-d – I would suggest we think about changing it to develop partnerships with managers in the visitor industry. I don't know how you partner with an industry – or similar words to that. And I think Hawaiian should be Hawaii residents.

Ms. Wade: Thank you.

Ms. Kaye: And can you speak, for a bit, closing parks and limit access to natural resources in order to rest sensitive places? Whenever that was discussed, how is it envisioned? Who would determine when it's sensitive to the point where it needs to be closed?

Ms. Wade: That's a good question. I don't know of that kind of detail has been ironed out.

I think this is really kind of a nod to the traditional kapu system of being able to identify when sources are being over-utilized and resources are dwindling and often need to rest. I know there's several places on Oahu that do that because there's so much traffic. So there could be, depending on the park and who managed it, probably they would have to develop a system by which they could determine when it might need the rest and for how long. Sometimes it's just that parks will rotate days in which they are open. They'll be open on a Monday, closed on a Tuesday, reopen on Wednesday. Or it could be they close for the season. There's a number of different options and I don't think that the way it's written necessarily precludes any of them.

Ms. Kaye: I have a similar suggestion to one we made on the last group, on G-3-f, encourage partnerships with businesses and community groups to improve and maintain trails and landscaping on public lands. I would think maybe, for our sake, we want to say, or lands providing public access.

Ms. Wade: That's an excellent addition. Thank you. That really enhances that statement. Thank you for that suggestion.

Ms. Zigmond: I move that we accept objective G-3 and accompanying policies G-3-a through G-3-j as amended.

Mr. Elliott: I second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, and seconded by Commissioner Elliott that we approve objective G-3 and its accompanying policies as amended. Any further discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay, motion is carried.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner James Elliott, then unanimously

VOTED: To approve Objective G-3 and its supporting policies with amendments.

Ms. Wade: The third section on your agenda is Transportation, and we have 15 minutes remaining. I guess it's up to the group whether or not you'd like to dove into that or if you want to postpone it. Dive right in - okay. So this is goal H regarding Diversify Transportation Options. So at this time, we will be reviewing goal H, objective H-1 and

policies H-1-a through H-1-i.

Mr. Elliott: In H-1-a, it talks about ground transportation – is there any reason why air transportation isn't included in this?

Ms. Wade: Excellent question. This section was actually reorganized by transportation type. It originally had different functions of transportation. Now you've got a group that first talks about ground, and there's a group about air and water and then there's a – or maybe air and water are also separated – and there's a pedestrian section. So this first objective deals solely with ground, and then we kind of repeat it under air and water.

Ms. Kaye: On H-1-f – I'm sorry – H-1-d – I would add after community – and scenic resources of the communities through which they pass the roads.

Mr. Gima: What was the intent in H-1? When you added that is environmentally sustainable?

Ms. Wade: When that statement was added? The environmentally sustainable is meant to deal with not fuel dependency – anything that's not fuel dependent. I would say imported fuel. At this point, it's very challenging for us to get fuel for our primary vehicles – our primary source of transportation. No, certainly not. I mean, provide an effective, affordable and convenient ground transportation system that is environmentally sustainable, doesn't necessary mean eliminating this type of automobile that we have now, but it could mean providing ways or encouraging ways to transfer the type of fuel that we produce, or producing fuel here – developing ways to have existing vehicles that use or adjusting them mechanically to be able to utilize different types of fuel – those types of things. And of course, other options like transit and busing options.

Mr. Gima: So basically you're coming up with a ground transportation system that is less dependent on fossil fumes?

Ms. Wade: Right.

Mr. Gima: Okay.

Mr. Matthew Mano: . . . (Inaudible. Changed cassette tapes) . . . I don't need a mic, thank you. Goal H, and objective H-1 and all it's assuming policies.

Ms. Zigmond: I second.

Mr. Gima: Okay, it's been moved by Commissioner Mano and seconded by Commissioner

Zigmond that we approve goal H, objective H-1 and all its accompanying policies.

Ms. Wade: As amended? You did amend one.

Mr. Gima: Did we?

Ms. Wade: There's just one, but, yes, there was – H-1-d.

Mr. Gima: As amended?

Mr. Mano: As amended.

Mr. Gima: Okay, any further discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay motion is carried.

It was moved by Commissioner Matthew Mano, seconded by Commissioner Beverly Zigmond, then unanimously

VOTED: To approve Goal H, Objective H-1 and its supporting policies with amendments.

Ms. Wade: H-2 is about non-motorized transportation.

Ms. Kaye: I have a question about H-2, the objective itself – reduce the reliance on the carbon/gasoline powered automobile or all? I mean there's electric.

Ms. Wade: You know, I think the intent of the developers of this statement was to encourage people to actually bike and walk, not necessarily just the automobile or the fossil fuel dependent. I think we kind of covered it. They intentionally covered that under the ground transportation section and they wanted this to be developing a lot more opportunities for people to choose to bike and walk, and not to take an auto.

Mr. Gima: So this is to encourage overall walking, biking as oppose to how some cities have closed off parts of downtown where you can't drive, and encourage people working in a downtown area to walk within that area. So which intent is it?

Ms. Wade: The intent is choosing to walk, not making it impossible to drive. Because I

think what you're getting to is there are places where they close the road to cars and it's a pedestrian mall essentially, and that wasn't the intent of this. It's just choosing to walk.

Ms. de Jetley: Mr. Chair, I move that we accept objective H-2 and all of its accompanying policies as written.

Ms. Kaye: Second.

Mr. Gima: Okay, it's been moved by Commissioner de Jetley and seconded by Commissioner Kaye that we approve objective H-2 and all of its accompanying policies. Any further discussion? Hearing none, all in favor please raise your right hand. Okay, motion is carried.

It was moved by Commissioner Alberta de Jetley, seconded by Commissioner Sally Kaye, then unanimously

VOTED: To approve Objective H-2 and its supporting policies as presented.

Ms. Wade: Okay, with six minutes left, the next objective is H-3 and this is about air transportation.

Ms. Zigmond: Does improve opportunities include like having some competition?

Ms. Wade: Absolutely. That was one of the sources of the intent there, and you'll see it also in H-3-b.

Mr. Elliott: I just have a question of where – I mean one of my concerns about air transportation is having multiple flight options in route, so I'm not sure where that fits in here. Is there a way to get that in there? I mean, I know we're having to deal with the market in terms of the options of routes, but it seems to me it's in our community or our County's better interest to have more routes available, like to fly to the Big Island and things like that. Is there a way to work that into the plan?

Ms. Wade: You could probably add the word convenient in one of these.

Ms. Zigmond: 3-b is pretty much that, yeah?

Ms. Wade: H-3-b – sufficient flights.

Mr. Elliott: Maybe to ensure more sufficient flights.

Ms. Zigmond: Jim, we don't have sufficient flights. So efficient would be an improvement.

Mr. Elliott: We need more flights, and it just seems to me that should be in the plan somehow. Where could we put that in?

Ms. Wade: Perhaps you could say expand service – encourage a viable and competitive atmosphere for air carriers to expand service, comma, ensure sufficient flights.

Mr. Elliott: That's good. Yeah, I would like that, yeah, to expand service and ensure – good. Thank you.

Mr. Gima: Has the GPAC, the different GPACs talk about – a couple of years ago, the Governor was trying to access Federal Highway funds to improve air transportation because we can not drive from here to Kahului, or from here to Mililani, and so she was trying to use those funds recognizing that, you know, we are separated by water. Was there any discussion of that in the GPAC?

Ms. Wade: There was not discussion of funding sources at this level.

Mr. Elliott: Excuse me, back on the amendment, wouldn't it read better to say for air carriers to expand service and ensure sufficient flights? Would it not?

Ms. Zigmond: Expand service, comma, ensure sufficient flights is fine.

Mr. Elliott: Rather than having comma, say to expand service and ensure sufficient flights intra-County. I just think the word and is –.

Ms. Wade: Done.

Mr. Elliott: I move we adopt objective H-3 and the accompanying policies with amendments.

Mr. Gamulo: I second the motion.

Mr. Gima: It's been moved by Commissioner Elliott, and seconded by Commissioner Gamulo that we approve objective H-3, and all its accompanying policies as amended. Any further discussion? Hearing none, all in favor please raise your right hand.

Commission Members: *(Hands raised.)*

Mr. Gima: Okay, motion is carried. And now it's a good time to stop here and then move on to our –

It was moved by Commissioner James Elliott, seconded by Commissioner Dwight Gamulo, then unanimously

VOTED: To approve Objective H-3 and its supporting polices with amendments.

Mr. Gima: I'm sorry. All right, we'll open this up for public testimony. Any takers? On the GPAC recommendations. Okay, public testimony is closed.

Ms. Wade: Thank you for your work. I appreciate it.

D. PUBLIC HEARING (To begin no earlier than 7:00 pm)

- 1. MR. JEFFREY S. HUNT, AICP, Planning Director transmitting the following bills for ordinances addressing the issues of bed and breakfast operations and transient vacation rentals (TVRs). (J. Alueta)**

The proposed bills can be viewed on line at:

<http://www.mauicounty.gov/departments/Planning/pdf/Revised092107TVRBil1.pdf>

- a. A Bill for an Ordinance to Amend the Bed and Breakfast Ordinance, Chapter 19.64 of the Maui County Code regarding Bed and Breakfast Homes.**

The proposed amendments add that breakfast shall be made available to onsite guests and that bed and breakfast operations within the residential and rural districts shall be limited to existing single-family structures; a 16 sq. ft. project notice sign shall be posted at the front of the property along the main access road; the application shall be subject to 19.510.20, the planning director shall approve or deny the bed and breakfast permit application; conditions under which the appropriate planning commission would approve or deny the permit; and provisions for renewal of bed and breakfast permits.

- b. A Bill for an Ordinance to Amend Chapter 19.40, Conditional Permits prohibiting transient vacation rental operations from being established via the conditional permit process.**

- c. **A Bill for an Ordinance Relating to the Permitting of Transient Vacation Rentals.**

The purpose of the ordinance is to allow transient vacation rentals only in the following instances: (a) in zoning districts where they are a permitted use (currently in the airport and hotel districts), (b) in business zoning districts, and (c) in the destination resort areas of Wailea, Makena, Kaanapali, and Kapalua.

- d. **A Bill for an Ordinance to Amend Section 19.30A.060, Special uses of the Maui County Code, relating to the Agricultural District.**

The Bill would include bed and breakfast operations that are operated in conjunction with: 1. A bonafide agricultural operation with an annual gross income from agricultural products of \$35,000 as a accessory use. 2. Located in a structure that is listed on a State or National Register of Historic Sites. Bed and Breakfast operations shall be subject to the provisions found in Chapter 19.64 and shall be subject to Chapter 205, Hawaii Revised Statutes.

- e. **A Bill for an Ordinance to Amend Chapter 19.29.030, relating to the Rural District.**

The Bill would include bed and breakfast operations subject to the provisions and restrictions of Chapter 19.64 of the Maui County Code as a permitted use.

- 1) Public Hearing on the various proposed bills**
- 2) Action on the various proposed bills**

Mr. Gima: Okay, so our next item of business will be public hearing on a Bill for ordinances addressing the issues of bed and breakfast operations and transient vacation rentals.

Mr. Joseph Alueta: Good evening Commissioners. We've taken – I've been to three bodies to make a presentation. Each body has chosen a different methodology in which they wanted me to make the presentation, so you have multiple options. I can just go through the summary of the report. I can just start from the ordinances and go line by line

through the ordinance and explain what the changes are. Or I can go line by line through the ordinances and then reference back into the staff report over the summary. So it's up to you how you want me – how you feel best to accomplish this. If you've read the report, I can just go line by line and then give some commentary on it.

Mr. Gima: Joe, before you move on, I had a procedural question and maybe you were kind of alluding to that already. On the agenda we have a, b, c, d, and e – were you talking about doing it all at once? Are we going to do one by one, and then vote on each one separately or do we vote on it all together? I need some help here.

Mr. Alueta: You've noticed it all – we can take it all as one package. I can start from the beginning of the staff report that's been presented to you, and go over it summary wise. Or in the case of – after I did that, the Planning Commission just wanted to go in line by line.

Mr. Gima: The reason I asked is in here I didn't see the Planning Department's recommendation and our voting options. That's why I was confused on how we were suppose to proceed with this agenda item.

Mr. Alueta: Okay, your voting options are to, you know, accept the Bills as they are presented, amend the Bills as you see fit, reject all the Bills, reject some and amend some. I mean, the gamut is wide. You're making a recommendation to the County Council on these Bills. These are Director initiated Bills. So the staff report tries to provide an overview of the analysis and the thought process that went into the generation of each Bill. And then we went through and highlighted the General Plan and Community Plan languages that exists today that supports the proposed amendments. And in some cases, we also highlight the General Plan and Community Plan language that maybe contrary to some of the Bills, in which you may have the same concerns for or not.

Mr. Gima: So there's one Bill that's covering all five items, or are there five separate Bills?

Mr. Alueta: The way it's structured is there is five – technically five ordinances but one of the ordinances that's being propose or one of the Bills, you could say, has amendments. So technically, there's amendments to eight sections of the Title 19. Because you're amending not only – I mean, we're amending several sections of Title 19.

Mr. Gima: Okay, any questions or comments from the Commissioners regarding how we're going to proceed with this?

Mr. Elliott: I just think my preference would be to take section A – deal with one section at a time. That would be my preference. I mean, I just don't understand how you can mix all

things all together.

Mr. Alueta: I can give you a brief overview of the thought process because it is sort of like a package of Bills and how they inter relate to one another, and I can do that in five minutes basically. And then we can go through each Bill line by line and explain the thought process and changes to them.

Ms. de Jetley: Mr. Chair, we have a number of vacation rental operators with us this evening, and I'd like to see us go line by line so that everybody knows exactly what we're covering.

Mr. Gima: Any other comments or questions from the Commissioners? Okay, go ahead Joe.

Mr. Alueta: Okay, as you know some of this started as a genesis of the –. Our Bill sort of picks where the last Bill – sometimes referred to as the Bob Carroll Bill – did not pass, and was not passed out by the County Council. The Department's proposal is to one, in general, is to stream-line the bed and breakfast application process to make it simpler and easier; to allow for transient vacation rentals as a permitted use within the destination resort areas; to allow transient vacation rentals as an allowable use within the business districts up to 20 rooms; and to eliminate the Conditional Permit process, so that transient vacation rentals would not be allowed anywhere outside of those specific zoning categories as well as geographic limitations. And then again, to allow for bed and breakfast operations within the rural and agricultural districts. That's the brief summary.

I'm not sure how on your ordinance – I'm going to go by – hopefully you all have the staff report – that might be the – for me that's the – all of you have the staff report? And if you look – start from Exhibit –. If you look at Exhibit 1, I'll start with that ordinance first. And that is proposing to add a new section called 19.38 for transient vacation rental bills. And this would allow for TVRs within the destination resort areas of Wailea, Makena, Kapalua and Kaanapali. After reviewing it, we're also proposing to include Kaluakoi on Moloka`i. There are no what we call a destination resort areas on Lana`i. You do have resort project district resorts, but that's different from what we call destination resort areas.

And so within those zoning categories – within those destination resort areas – on the other two islands, you have a multiple of zoning including apartment districts, residential districts, business districts, as well as hotel. TVRs are limited right now by zoning code to the hotel districts. We're proposing by geographic limitation to allow the apartment districts and even the residential districts and business districts to also have transient vacation – to be converted to some type of a transient rental accommodation. The concept

behind that is that the destination resort areas were developed and marketed toward the tourists as well as off second homes and off shore buyers. They do not play a significant part to a long term housing market in that sense. So the conversion of those, we do not feel have a significant impact on the local housing pool. And because they were geared toward off-shore and like I say, secondary homes, it makes sense. So we're moving. We'd like to see the transient, if anything, transient vacation rentals be allowed in those geographical limited areas.

That Bill, also is a package Bill, includes amendments to the B-1 Business District, B-2, B-3, BR and BCT zoning categories, which are business districts. These are all business categorizes throughout the County of Maui, and we would allow for transient vacation rental units up to a 20 unit in motel/hotel/whatever you want to call them. Again, because we considered transient vacation rentals to be a commercial use, we feel it's appropriate to be in the commercial district. Furthermore, in 1991, motel/hotel uses – motels in ends were listed as permitted uses within those districts. It was amended to eliminate that use. So at least on Maui, we do have and possibly on Lana`i, you have what you call existing non-conforming motel inns or hotels. The reason it was taken out primarily was on Maui we had the Maui Isana which was a large hotel built within the business district which created an up-roar because one, the massing in scale of the building. And secondly, it was sort of like an expansion tourist area outside of what was traditionally the resort areas. We feel that although we are allowing some type of transient vacation rental or up to a 20-room hotel within the business district, we feel that the scale of it would be in more keeping and more compatible and would be more palatable to, hopefully, the County Council and to you, of course.

So that's the goal, is once again, we're trying to allow some type mixed use. The concept of having this type of potential within the business core. It's modeled after the Wailuku area because the Wailuku-Kahului Community Plan was amended at the last go around to encourage mixed use and to have some type of small inn in the business core of Wailuku, and so that was amended. And that was a catalyst for us to develop what we called the Small Town Code or the Wailuku Development Code in Wailuku, and where a 20 room inns are – up to a 20-room inn is – listed as out-rightly permitted use within the commercial core of Wailuku.

As indicated in my staff report, I do point out that there is some significant Community Plan and General Plan conflicts with our proposal, except for, within Wailuku obviously because they did it. So, there is some, could be some, opposition or conflicts with granting or doing this Bill at this time, and it may come to the point where it will have to put on the side until such time as the Community Plans are amended to reflect or become similar to what the Wailuku-Kahului Community Plan did which was to make an allowance for it.

But, again, we're putting it out on the table as a package and proposals. That pretty much covers that first Exhibit 1 which is amending 19.38 as well as various sections from the business core. As far as – Maui did get through – or testimony from Maui was some people didn't want to have the expansion as far as public, and especially the business-country town because they didn't feel it was appropriate. But I can't remember if the Planning Commission didn't get to that section at this. Do you have any questions on that right now?

Ms. Kaye: We're just talking about the first one right? The Chapter 19.38? Okay, so, my first question was D, on D, existing TVRs which were operating pursuant and under law. What law? I thought the only place it shows up in the Code is a definition of what a TVR, which is anything rented under 180-days.

Mr. Alueta: I'm sorry. Which one are you looking at?

Ms. Kaye: Page #2, Section D.

Mr. Alueta: Okay. Yeah, because you do have existing, non-conforming.

Ms. Kaye: Wait, that's not the question I asked? Which law are you referring to that says that if they were operating pursuant to what? What law? Not B&Bs now, TVRs?

Mr. Alueta: Correct. Prior to 1991, the amendment to 1991, TVRs were allowed within the Business District, apartment district, as well as, some non-conforming interim lands within Haiku.

Ms. Kaye: So anything after 1991 there is no law that would cover this? Is that what you're saying? So if someone opened a business in 1995, they would not be operating pursuant to law?

Mr. Alueta: They wouldn't have a TVR Bill. They wouldn't be allowed.

Ms. Kaye: It would not be allowed. Okay, and then –

Mr. Alueta: Except in the hotel districts.

Ms. Kaye: But then you also shut the door on, in the next one, on Conditional Permitting process. So that leaves this entire island out of the picture completely, correct? I just don't understand. You did say something before and I missed it, that there would be some allowance in a residential areas, but what you meant was so long it was before 1991 operating?

Mr. Alueta: Residential – no, I did not.

Ms. Kaye: You didn't. So no residential TVRs at all under this?

Mr. Alueta: No. And as far as how we deal with existing allowed TVRs that were granted through Conditional Permit process, under the existing Conditional Permit process, we have yet to work that out, as far as the transition, but I'll get to that when we get to the next Bill.

Ms. de Jetley: I have a question. Would it be possible to remove this island totally from the Maui Plan? Like can we –. We can't survive on Lana`i without the existing bed & breakfasts and vacation rentals. We've had a long history of hunting accommodations for people dating back into the 1940's. The way this whole thing is all of our rentals will be illegal basically. So can we just pull out of the whole County thing and have our own rules and regulations for this Island only?

Mr. Alueta: First off, the bed & breakfasts, when we get to that part, that's still an option. We're not eliminating bed & breakfasts. Okay? We're not eliminating bed & breakfasts. As far as your transient vacation rentals, you know, where someone is renting a house or what not, they're not legal. Unless they're existing non-conforming or they can prove that they're existing non-conforming prior to some other law, they're illegal. And I've said this many of times is that a bed & breakfast permit, as well as, a transient vacation rental outside of those hotel districts and non-conformities is not a right. It is an entitlement that you earn. Okay? You don't come in and say I'm operating a TVR. It's something that you have to come in before and apply for through either a bed & breakfast application permit process or through a Conditional Permit or State Special Use Permit process. So if someone has started an operation and did not obtain those permits, they do not have a legal entitlement to operate. Now I understand that there are quite a few numbers of operators – some may be legal, some may be illegal. I don't know the whole list, but we are pushing for bed & breakfasts. Some of them can switch over to a bed & breakfast operation or they can comply, like I say. Or as you said, you want to exclude Lana`i. But under the existing law – right? – they're not allowed. Period. So unless you come up with – unless we come with a new law or you continue to leave open the Conditional Permit process for them to come in through a Conditional Permit process. That's an option, but I haven't gotten to that thing yet. It's part of this package.

Ms. Kaye: One solution would be in the very first sentence of Section #1 – to allow transient vacation rentals only in the following instances, and add D, and in areas to be defined by the Lana`i Community Plan.

Mr. Alueta: Yeah, that's true. Yeah, so, it would still be illegal until you definite it. And –

Ms. Kaye: . . . (Inaudible)

Mr. Alueta: No it would be your Community Plan. It wouldn't be me.

Mr. Gima: Joe, last year, the Planning Commission, as you show in your matrix on your staff report on page #2 and #3, both the Moloka`i and Lana`i Planning Commission voted to recommend denial of the proposed amendments, and that the matter should be determined during the General Plan process. What was the outcome of the Lana`i GPAC in terms of this issue?

Mr. Alueta: I don't know. You guys are reviewing the body, aren't you? You're going over it. Again, and that's a good point. Like I say, currently, it's prohibited, okay? In the areas – the one area – like I say in the Wailuku-Kahului, they set out a specific area where they wanted to encourage small inns, and laid out the foundation for that, and that's where we made the change, to allow inns in Wailuku. In the Paia-Haiku district, they specifically prohibited non-owner occupied transient vacation rentals. They said it had to be a bed and breakfast. You had to be an owner-occupied or owner-lessee or whatever operation. That's what their language says. So some Community Plans have dealt with it, and you did not. But once again, it's the cart before the horse. You just don't break the law, and say, hey – you first you go through a community plan process if you want to make it legal. And that's what you indicated at the last time around.

Mr. Gima: Yeah, I understand what you're saying, but I'm just wondering if your report reflects what the Lana`i GPAC deliberated on this issue?

Mr. Alueta: That happened before GPAC, as far as I know.

Mr. Gima: Right. In June and July of 2006 –

Mr. Alueta: Right.

Mr. Gima: – we denied the proposed amendments.

Mr. Alueta: That is correct.

Mr. Gima: And the matter should be determined in the General Plan process. So my question is does your staff report reflect the GPAC's work?

Mr. Alueta: No.

Mr. Gima: Why not?

Mr. Alueta: Because it hasn't been adopted.

Mr. Gima: What hasn't been adopted?

Mr. Alueta: You have to get a community plan adopted. My job is on the implementing side. So the genesis for many Bills, for many ordinances that come out our Department, and changes, are part of like an implementing process of the Community Plan, okay? If you had adopted a Community Plan, or during this next go around, they adopt some type of language that defines how they wish to regulate transient vacation rentals on Lana`i, that would trigger me to go back and re-look at the ordinances and craft some type of language or Bill that would allow for the permitting or the allowance for transient vacation rentals for Lana`i.

Mr. Gima: So that having been said, are the amendments that are being currently proposed in your staff report the same or different than what was proposed back in 2006?

Mr. Alueta: Significantly different.

Mr. Gima: Can you let us know what the significant differences are? Because the 2006 one we denied.

Mr. Alueta: Correct. The 2006 one tried – attempted to treat TVRs as a B&B, so basically one of the primary limitations of a B&B is that you have an owner-operator living within the same structure. The Bob Carroll Bill, the 2006 Bill, had no such limitations. And so you didn't necessarily have to live on the property. It just had to have a managing agent. So we were against that because one, you had a conversion of a long term housing unit converted to a tourism accommodation. And that was one of the main principals behind that standard of what we defined as a B&B when it was first discussed back in 1996, as well as the controlling factor of having an owner occupied structure for visitor accommodations. There's a number of benefits – besides not losing a long-term housing unit to the tourism industry, you have social controls by having the owner-operator living within in it, so you minimize your impacts on the neighbors, you know, from your loud guests if you have those and other factors – I'm just not going to –.

Mr. Gima: What are the significant differences on the amendments regarding the TVRs?

Mr. Alueta: Within this one? This Bill sets out where there is – you don't need a permit process because we set up a geographic limitation of where the destination resorts areas in our Bill, and it will be listed as an out-right permitted use under the County. So therefore, so we're eliminating a permit process for that – for those areas, as well as the business districts. And at the same time, we're eliminating a permit – the Conditional

Permit process – from being used to establish the TVRs outside of the areas that we said. So it's kind of a carrot and stick method. We're saying here's where we want you. If you want to do a TVR, you're limited to these areas. If you want to do a B&B and we want to encourage people that want to do a B&B outside of those areas, you can do B&Bs, and we're going to streamline the permit process. And if you want to do a TVR, we're going to say "no, you can't even apply for a permit." It's going to be a prohibited use. It is a prohibited use, but we're going to close the one permit process which is a Conditional Permit through the County Council.

Ms. Zigmond: Has this come before the Moloka`i Commission yet?

Mr. Alueta: Yes.

Ms. Zigmond: Could you "por favor" tell us what happened?

Mr. Alueta: We had two meetings, a day and a night meeting. We received some testimonies during the day time about what they wanted seen changed by bed and breakfast operators, as well as, transient vacation rental operators. And then, also testimony by those who were against the TVR. And during the evening meeting, it was just the people who didn't want anything. They didn't want B&Bs, and they didn't want TVRs even in Kaluakoi. They didn't want the expansion of allowing TVRs outside of the hotel districts of Kaluakoi. Nothing. The only Commission that has gone through any of the Bills in any significance was Maui. Maui took testimony. They, at least six hours to eight – six hours of testimony – and then said thank you very much, now let's get down to work. And they went through the Bill line by line, made proposed amendments and changes to the B&B Bill. And they went down and they discussed a lot, but they didn't finish. They obviously didn't finish.

Ms. Zigmond: Moloka`i deferred then?

Mr. Alueta: Moloka`i deferred so they didn't get –. It was just a long evening of testimony all day. So again, was there any –? Like I say, the first ordinance is 19.38 which would set up a geographic limitation. It doesn't really impact Lana`i in a sense that you don't have a geographic destination resort area the way it's defined on the Community Plan. You have resort areas by Project District, which already allows transient vacation rentals and their own limitations through their own Code. And then we would allow for having small inns or small hotels up to 20-rooms within the business core districts, including the BC-T.

Mr. Gima: I'm kind of curious. Right now we're talking about 19.38, the TVRs, and is there a reason why there is no reference to the Lana`i Community Plan?

Mr. Alueta: The Lana`i Community Plan is silent throughout the entire – I never dealt with it.

Mr. Gima: And that goes for the rest of the –? Okay, thank you.

Mr. Elliott: Why is my question. They're silent. You mean, it was never discussed by the –?

Mr. Alueta: I think Lana`i was one of the early ones. As far as the Community Plan process went through as one of the earlier ones. And if you look through the current Community Plans and how they were up-dated, they got progressively and progressively more sophisticated and dealt with issues because they had the benefit of seeing where people left stuff off, and they added it in. And so, some of the later ones became very sophisticated as far as the issues. Because if you look at, like I say, Paia-Haiku as well as Hana Community Plan, they were very, very specific of where they wanted – the recognized the issue of TVRs and B&Bs. They recognized the issues. And they had their own plan as far as where they wanted to deal with them, and where they wanted them located. I guess in the sense of Lana`i, Lana`i was already driven with the resorts and dealing with water resources – you know, what do you do with your golf course – those issues, so you were very focused on some issues and it never came up.

Ms. de Jetley: So we have some people in the audience who worked on the Lana`i Community Plan. Is it possible if we could ask them for their take on them?

Ms. Kaye: That was the 1990. I'm not sure –.

Ms. de Jetley: Pat Reilly was here. Did you work on it? Or Ron McOmber is here. He worked on it. Did you work on it? I don't know. I'm asking whether or not we can get a take. It's up to the Chair and staff.

Mr. Gima: Any objections? Okay.

Mr. Ron McOmber: My name is Ron McOmber. A resident of Lana`i for 37 years. The last Community Plan we didn't address it because it was not an issue. It was basically being ignored by the administration and they weren't addressing because it's a hot issue. It was not in the Community Plan. Since then, we've had revisions on this. And I was reading tonight, the Kula's objections to this. And the one word that everybody is missing in here is short-term rentals. We have short-term rentals. Anything under 180-days is short term rentals, and we get it through TAT tax. We pay our tax on that.

Mr. Gima: Ron, let me interrupt here.

Mr. McOmber: Okay.

Mr. Gima: Your comments about that would probably be more appropriate in public testimony. She was specifically asking you about the Lana`i Community Plan.

Mr. McOmber: We never addressed it in the Lana`i Community Plan because at that time it was not an issue for us to address.

Mr. Gima: Okay.

Mr. Elliott: My question is in your recent process, within the last year, was there discussion about it then?

Mr. McOmber: We had discussed that, and if I remember correctly, we said we would handle that during the Community Plan segment, not through the whole County because we knew what trouble they were having on Maui. So we said the appropriate way to do that would be to address it here in the Community Plan, Lana`i Community Plan.

Mr. Gima: Thank you Ron.

Ms. de Jetley: So what I'm getting through all of this is what's happening on Maui is not what we want. So can we do it through the Lana`i Community Plan and pass on it now? You know just totally disregard what's happening on Maui because it doesn't – it's not applicable to what is happening in this community.

Mr. Alueta: Well, yes, but you're not helping anyone who wants to have a B&B and wants to have a streamline process for the B&B. You're not helping anyone who wants to possibly do a TVR within the business districts of Lana`i, and business core because –

Ms. de Jetley: We don't have anything in the business core that's available.

Mr. Alueta: Then again, you can make your comments. But like I said, we're just here. If those are your comments that you don't feel that these impact you or you don't want them at all, you can recommend denial for them. Or if you feel that – like I say, the biggest thing that's going to impact you on these Bills is possibly the Conditional Permit process. Because you've got to understand that B&Bs – or in your case, I guess if you have majority of transient vacation rentals right, that is not permitted use, okay? And so the only way – the ones that are operating that don't have permits are illegal. And the only method in which they can become legal is through a Conditional Permit process.

Ms. Kaye: . . . (Inaudible. Changed tapes) . . . what we expressed with the last Bill. In

great detail, we went over provision by provision, line by line, we made – I brought some substantive suggestions and I don't see one of them in here this time. I pretty much recalled we begged you to make a difference between TVRs because they're so essential over here and not lumping in with B&Bs. Remember that?

Mr. Alueta: Yes I do. And again, I agree that through the Community Plan process you need to establish some guidelines and for me to come back and write an ordinance that would be specific to Lana`i. In working through the General Plans, as well as the Community Plans, and trying to craft an ordinance that is a Countywide ordinance, this is the best that we came up with. And like I said, if and when the new Lana`i Community Plan comes up and whatever shape and form it deals with, that would be the catalyst for me to make amendments to an ordinance to include you or to include your proposals as far as limitations. I mean, honestly, it's like, if you need to create some type or preserve your illegal TVRs that are on the island, and have them become legal in some fashion, then the only option is your conditional permit process, which again, we are proposing to close. So, you know, that's going to be your –

Ms. Kaye: I really thought about this because of having been through this before and I think that amending the first sentence to exempt us as we define ourselves in the Community Plan, and then add – do the same thing under 19.38 purposes of just this Bill – then add a “d” and in areas defined by the Lana`i Community Plan. That way you guys can do what you want.

Mr. Alueta: Okay. If that's the motion.

Ms. Kaye: That's just a thought.

Mr. Elliott: My only thought is I would like to hear some public testimony on that. I think it's a great suggestion. I would just like to hear what other people – how would they respond to it.

Mr. Gima: Any other questions or comments from the Commissioners? I think conceptually we want something that recognizes how different and unique Lana`i as compared to the other two islands. At the same time, I think we have a responsibility to come up with something that just doesn't meet the needs of the current individuals or businesses that provide B&B and TVR services here on Lana`i that we have to recognize – we have to have some foresight that 30-years down the line things may be different, and so when it comes to – if it does come down to the Community Plan process that we have to keep that in mind and just not meet the needs of the current individuals or businesses providing their services.

Mr. Alueta: Do you want me to – you guys are going to take notes? Do you want me to go through all the whole package, take public testimony and then we'll come back and go through it again as far as your proposed amendments? You want to do that? Okay. So moving on to 19.40 which is on Exhibit #2. Again, it's very straight forward. We're just eliminating TVRs as an option for Conditional Permit process. So Maui was – the Commission on Maui, their discussion on it was very – a lot of them were not in favor of that so that was part of their concern, but I don't think they came to a final conclusion on it yet. But a majority of them were leaning toward keeping the Conditional Permit process open.

On Exhibit #3 is your 19.64, which is your bed and breakfast ordinance. Again, major changes with the B&B is that we are consolidating. The permit process is currently three permit types: Type 1, Type 2 and Type 3. There's administrative, Commission and Council level. We are pan-caking that all down so that all permits are administratively reviewed, and if a public hearing is required, it goes through the Commission. Three areas in which a person would require a public hearing is that one, is if – our proposal is – 40% of the landowners within the 500 feet radius of the property object to the permit, there will be a public hearing process, if there's another B&B operations within 500 feet of the property, that would be a public hearing process, or if the applicant wants to appeal or disagrees with the determination of the Director, there will be a public hearing process. So just because you can have six rooms doesn't mean you're going to get granted six rooms. Again, this is not a right, this is an entitlement. They apply for an application. It's reviewed. Maybe they have only a 4,000 square foot lot, they can't accommodate all of the parking that a six bedroom would, but based on the site configuration and the neighborhood, the Director is willing to support two-bedroom bed and breakfast. And if the applicant feels he needs to have all six, he can then go to the Commission and they would review the permit as if the Director would review it through the criteria for establishing a B&B application.

Changes that were included was, like I said, the significant one is being done administratively. The next one, that B&B permit needs to be held by a person, not a corporation. That's just clarifying it because that's how initially that's how it was suppose to have been. We wanted to make breakfast available on site. Doesn't mean you're going to cook or have a commercial kitchen. It just means you're going to have muffins or whatever you can do based on the limitations of Department of Health. We're also limiting to existing single-family structures. It doesn't mean existing single-family structures built today, but just prior to you applying to a permit. It has to be for a structure that is existing. So you can't come in for a permit and purposely built structure to operate a B&B because then we end up with these eight bedroom, nine-bath houses that do not look –. Someone can still build an eight-bedroom, nine bath house but we do not want them to build that in anticipation that they're going to get a B&B permit. Like I said, it's not a right, it's an

entitlement.

Some administrative cleanup as far as who provides the list of 500-foot boundary, a 16-foot notification sign to be posted on the property and to remove 30-days after. And the rest of the changes on line #3, line #4 again – sorry – page #3, page #4, and page #5 is basically just scratching all of the previous type 1, type 2, type 3 permits. 19.64.060 that allows the Director to do time-extensions. And if he grants a time-extension for more than – for two years or more, then an annual report is required by the owner. Comments that were discussed and that were brought up by not only meeting with the Bed and Breakfast Association and was brought up by – putting in a one by one sign on the fence or, you know, post office box to notify the people that this was a B&B, so tourists aren't driving around and getting lost. Hana didn't have an objection to that. They did want the notice sign to be taken down five days after the determination on the permit. They want the signs down. They're very touchy about signs in Hana.

The Maui Planning Commission, they also eliminated lessee proprietor. They wanted owner proprietor, so the person had to have some type of ownership interest in the property to be able to apply for a B&B permit. They also wanted notification requirement to be dropped to 33% from the 40%. Those are the ones that were coming out of the Maui. Other issues that the Maui Planning Commission talked about was allowing for grass crete or some form of grass parking is to be discussed rather than requiring it to be paved. And also to allow for tandem parking on the parking. So those were some of the synopsis of some of the discussions at Maui and Hana.

Mr. Gima: Okay, any questions or comments for Joe on the B&B? I have. Joe, with the proposed amendments, what do you see as the specific impacts it has for our island?

Mr. Alueta: It streamlines the process. It makes it administrative. It no longer makes it either Commission – for the most part – Commission or Council level. It brings it to the Director level. It speeds the permit process up. It sets up some clear guidelines and notification requirements. So it's consistent with part of the Zucker Report –that we had an audit. It's in my – in the staff report, it talks about what the justification was for streamlining the permit process. I think some people complained there's too much permit process. We're trying to streamline, and this is one of those that we're trying to stream line.

In Hana, they felt that up to three bedrooms should be done administratively, but then four, five or six should have a hearing. That was Hana's comments as far as that goes. Another comment of discussion was a count of minor children. The Maui Planning Commission – excuse me, to back up. Right now B&Bs are limited to two people per room. The B&B Association wanted to get a clarification. They wanted to allow for minor children

not be counted toward that two people. So if a family came – husband and wife – and only one room, but they had like a two-year old or a minor child they wanted to stay with in the room with them. So they didn't want to count towards that. And so they, the Commission, voted on 12 and younger as being minor children and to allow for minor children to stay in the room with an adult – up to two adults. And I think they set it at maximum of four. Like I said, I just came back from Ireland, and spent a month there, and I stayed in a bed and breakfast with my two kids, so it's done elsewhere. It's a little tight, but you can do it.

Mr. Gima: Is the least contentious of the three B&B proposed amendments?

Mr. Alueta: Probably.

Mr. Gima: So any other specific impacts for our island regarding this B&B proposed amendment?

Mr. Alueta: No. I think it opens up the issue – I mean, for single-family – no. If you don't want to see B&B applications, you feel that the Director should have the authority to approve it, then no. There's no real impact to Lana`i.

Mr. Gima: Any other questions or comments on the B&B proposed amendment? Sally?

Ms. Kaye: Yeah, I'm going to say this again, on page #5, the very bottom line, I know we talked about this the last time this came around, that you really ought to insert the owner proprietor, a lessee proprietor intentionally provided false or misleading information. And then –

Mr. Alueta: I'm sorry, page #5.

Ms. Kaye: Yeah. You're making it a strict liability. They have know they gave false information to make it liable, and I think it's –. It's going to be hard to enforce. Last line.

Mr. Alueta: Which line again?

Ms. Kaye: The very last line, #1, the owner proprietor or lessee-proprietor intentionally provided false information.

Mr. Alueta: Okay.

Ms. Kaye: And then on the next page, #3, I know we talked about this last time as well that an owner proprietor or lessee-proprietor is knowingly overdue.

Mr. Alueta: Thank you. I wasn't going to go into amendments but we'll bring it back up for discussion. If there's no more questions, moving on to Exhibit #4 which is the Rural District. Basically the Department views that single-family residents are allowed use within the rural district. And since that occurs and we consider bed and breakfast operations, owner-occupied or lessee-occupied bed and breakfasts to be accessory to, subordinate to, the residential district, residential use of the house, that they should also be eligible to apply for a bed and breakfast operation subject to the restrictions of 19.64. So it sort of opens it up to the rural district. If you want to act.

Mr. Gima: What is being amended?

Mr. Alueta: All we're doing is adding bed and breakfasts as an accessory use and that people who are within the rural district – they have a house, a single-family resident within the rural district, they can apply for a bed and breakfast subject to 19.64. Under the existing B&B ordinance, the rural district was not included, so we're just allowing it to be allowed, so that you can apply for a permit.

Page #13 and #14 and #15 has at least, you know, like I say, the analysis of that, relative to the Community Plan and General Plans. I will say that from the State Land Use Commission and Office of Planning – because some of these County rural districts include State rural lands – and from a State stand point, from Office of Planning, they believe that a State Special Use Permit is still required for a bed and breakfast permit within the rural district. We had discussions with the State Land Use Commission and because – which is the permit for a State Land Use Special Use permit – that because we are viewing and the limitations of the B&B is an accessory to and subordinate to the permitted use a single-family resident, and because single-family residents are allowed within the rural district, they feel that we do not need to require a State Special Use Permit for a bed and breakfast in a State rural. So that only the B&B permit, only the bed and breakfast permit, in the County rural district is necessary to obtain the entitlement of a bed and breakfast operation.

Again, the current division planners did review it. It was kind of a hotly discussed items. And they felt – it was a four to three vote in favor of the proposed amendments. Those who were opposed to it may support the amendment if standards for limiting the number and density was established. So not only was it in the current division, but also in the Hana community. Hana Advisory Committee, they also talked about that in their recommendations of setting some type of limit as far as setting the number of B&B permits that could be allowed within a specific community plan region, or district. So not only, you know, the 500-foot radius and what not in public hearing, it's setting a cap or a maximum number of B&B operators that could be allowed by community plan regions.

Mr. Gima: Okay, any questions or comments from the Commissioners? I had one. In the

current zoning maps for our island, again, what specific impact do you see this amendment having on our island?

Mr. Alueta: I don't have one in front of me, but I'm assuming --. Do you have any lands that are zoned rural? Do you have any rural, half-acre rural land? If you don't, then you're not impacted. It doesn't impact you. Moloka'i and Maui have some significant amounts of rural lands.

Mr. Gima: I'm trying to remember if there's --. It would be rural -- State rural district down in I think the project districts.

Mr. Alueta: You do have some?

Mr. Gima: Yeah.

Mr. Alueta: Okay.

Mr. Gima: It's in the project district.

Mr. Alueta: Is there no other questions Chair?

Mr. Gima: Yeah, I think there's only State rural zoning, not County rural.

Ms. Suyama: For clarification, when the rural district ordinance was adopted by the County originally, there were provisions that if you were in the State rural district and you were community plan rural on the community plan, it did get County rural zoning at the same time. So some of those properties, if they are community plan as well as within the existing State rural district, it's zoned County rural.

Mr. Gima: I guess there is some rural zoning down at Kaumalapau. Okay, any further questions or comments? Okay Joe, you can move on.

Mr. Alueta: So the last one our semi-contentious Bills are the 19.38 which is the Ag-district. Again, on page #7 of Exhibit 5 I think -- yeah Exhibit 5 -- we established that again, bed and breakfasts can be allowed to apply for a permit. Again, it's an entitlement you earn, not one that you're granted out right. The agricultural district is by its name is restricted to agricultural operations. Any structure built within an agricultural district is intended to be supportive and/or subordinate to an agricultural operation on the property. Therefore, if you have built a farm dwelling and you wish to apply for a bed and breakfast permit, one of your criteria that you have to meet before you can apply is it has to be bonafide agricultural operation. And we've set that with an annual gross income of \$35,000, and

that is pursuant to Section 19.30A.050.B.2.a and/or located on a registered historic sites listed in the State or National Register of Historic Places. Within the State agricultural district, again, farming is an allowable use. In addition to farming, retention / restoration of historic structures is an allowable use. Therefore, we feel that a bed and breakfast operation in one of those instances would be subordinate and accessory to those existing structures. And given that, we feel that a bed and breakfast can be granted to being subject to the limitations of the bed and breakfast ordinance of 19.64.

Ms. Kaye: I had a question on that one – 12 – are A and B disjunctive?

Mr. Alueta: I'm sorry. I'm not very good at English, but disjunctive?

Ms. Kaye: I'm sorry. Either one or the other. Is there an "or" missing in there?

Mr. Alueta: No, it's either one. Not both. It's not both. You can either qualify for a B&B if you have a \$35,000 threshold of farm income or you are B, you have like a registered historic site of business. You want me to put some returns on there and list them? But that's the intent of it. Conflicts and comments from the agencies – specifically the Office of Planning and State Land Use Commission. We were – County's interpretation was that we have the authority to define accessory uses within the agricultural district and we were attempting to define these uses as accessory. Office of Planning – their interpretation of the recent amendments to the State Land Use Law which sets out the criteria for a agricultural tourism – at least the State Legislature did – they allowed the counties to define and establish an ag tourism ordinance. However, their limitation to the County's authority was that we could not allow for over night accommodations within the agricultural district. Office of Planning is taking that – applying that provision of prohibiting overnight accommodations – that the County could not allow B&Bs or transient vacation rentals even with a State Special Use Permit. Meaning that in the ag district they would be prohibited outright no matter what. We can't grant it. I guess our reading in discussing with State Land Use Commission, they're saying you can still issue a State Special Use Permit. The restriction was in 205.405 which is the agricultural section. Whereas, the State Special Use Permit is Section 205-6. So they feel that which their permit – the State Land Use Commission's Permit – that you can obtain overnight accommodations or at least B&Bs through the State Special Use Permit process. So in addition to applying for a bed and breakfast permit, you would also have to apply for a State Land Use Commission Special Use Permit which would come before this body. This is for the State Agricultural District. And like I said, on the staff report, it talks about – in our analysis we talked about how the proposals, on page #16 and #17, meet or do not meet the criteria of the Community Plan and General Plans as well as summary comments from the agencies, as well as, staff comments.

Ms. Zigmond: Joe, I have a question for you. Page 6, the numbers on the side of the page – 17, 18, and 19 – it specifically talks about Moloka`i and Lana`i which seems to me to say that there's something different of Maui on this – in this section here. Can you –?

Mr. Alueta: On page 6, which one?

Ms. Zigmond: 17, 18, and 19 – the line numbers on the side of the page.

Mr. Alueta: Yes.

Ms. Zigmond: Can you speak to that please?

Mr. Alueta: That's the existing County ag district. We're not amending that. And they are establishing that what criteria needs to be met for an additional farm labor dwelling on lands greater than five acres – on lots greater than five acres. The current restriction or provisions for farm structures within the agricultural district is you're allowed – you could build a main farm dwelling and then a second farm dwelling limited to 1,000 square feet. And the current administration of that rule is that you come in with a farm – you submit a farm plan with your first structure that you built on the property. We'll give you a permit with that farm plan. When you come in for your second structure, which could be 1,000 square feet or bigger depending on what size your first structure was. And if you had implemented your farm plan, then we would grant you the permit for that second structure. Those two structures are, one, the one structure can be any size basically. The second structure or the other structure has to be not more than 1,000 square feet. In cases where you have lots that are five acres, this provision allows you to build another farm dwelling structure on lots that are greater than five acres, and you meet this criteria that is outlined. And I guess for Moloka`i and Lana`i, you have set additional criteria for them to meet. Yeah, Maui took one option, I guess – Moloka`i did.

Ms. Suyama: I think to clarify, you know, that section you're talking about. It is in the existing code. For the island of Maui, you're given three options. As long as you've met two of those options, you could get a farm dwelling – an extra farm dwelling – but for Moloka`i and Lana`i, they took away your three options. They said only option A and B – if you meet those two criteria you can have a farm labor dwelling. So the third option which was to provide a farm plan during the building permit process was not adequate. They're saying you've got to show income, and you have to show certification from the Board of Water Supply that you have agriculture water rates. In other words, you're actually doing agriculture on the property. So it's a more restrictive requirement for both Moloka`i and Lana`i. Because on Maui, you know, because we have a lot of ag-subdivisions, what's happening is people, just through the farm plan, is saying that, you know, I have this and I may have agricultural water rates, for whatever reasons, and for those reasons, you

know, we can get a building, a third farm dwelling on the property. And I think it's become, you know, a problem more on Maui than on Moloka`i and Lana`i because it's a lot more restrictive.

Mr. Gima: Okay, any comments or questions by the Commissioners? So the intent of this amendment is to stop the proliferation of people purchasing ag lots and using it for residential or B&B type of thing and having ag as a non primary goal?

Mr. Alueta: I don't think that – I'm going to say no and yes. No, I do not think it will stop the proliferation of gentlemen estates. I think it will limit your financial options or encourages people who have – who want to do a B&B to farm, I guess you could say – to do more ag operations if they want to do it. And that you're not going to be able to calculate your business plan with just doing a B&B and not having to do any farming. I think those who live in the ag, who bought ag land, to live on the ag land, they're suppose to farm, but some are not very good farmers or don't want to farm. So you can't force people to farm. But just because they're not good at farming or don't want to farm doesn't mean that you have to give them another entitlement to the B&B process.

Ms. Kaye: You have some testimony from the Maui – I guess prior to the Maui Planning Commission hearing on this – for people who have been on their lands for three or four generations, and we're getting to the point where they're too old to farm, and this was an ancillary way for them make income and allow them to stay in their homes. Are you going to consider any kind of exemptions procedure for people who have simply can't meet that \$35,000 income?

Mr. Alueta: No. It's again, you know, they had, you know, generations of farmers, that's fine. They cease to farm. It's not like we're going to say, well, you're no longer farming, therefore that structure, that house, you built – we're not going to tear it down. But ag is ag.

Ms. Kaye: But in my mind, you're sort of creating sort of restrictive covenant that's going to travel with the land because if I can't afford to farm anymore and I can't meet that income and I can't earn money through, you know, a B&B for example, I'm going to have to sell. And the person who buys it is going to be subject to the same restrictions. They're going to have to farm. They can't – right?

Mr. Alueta: That's what zoning is all about.

Ms. Kaye: Right. I understand that. That's why I asked if you were going to have any exemptions for people?

Mr. Alueta: No. The only thing we talked about is having a smaller – making it a percentage of – so that smaller farmers that are legitimate farmers that have – where the majority their income is coming from farm activity. So the majority of the household income, they could apply – where 51% of the income, household income, is from farming. I believe I heard that Kauai established the same criteria. And that also came up as comments from the Current Division of establishing the 51% of the household income. What that means is that if you're farming the land and your sole income from farming is \$21,000 a year – right – and then your wife works outside the house and she makes \$19,000 a year – right – the household, 51% of that household income is coming from farming, therefore, that's the primary use of the land. Therefore you can apply for – you should be able to qualify, to apply, a bed and breakfast – to encourage someone so that person can stay on the farm and farm it. That's one provision that we are looking at as far as you qualify exemption. However, remember, maybe you're making \$30,000 – right – but your wife works outside, or your husband works in the construction industry, and is making \$60,000, you don't qualify under that. You have to meet some kind – you see what I'm saying? Because the household income is no longer – the primary household income is not coming from farming. So I think you're going to have to come up with –. And I think that's what the Current Division – that the comments from the plan was to set up both. It's \$35,000 or 51% of the household income is coming from farming.

Mr. Gamulo: The guy is not prohibited from leasing the land, right?

Mr. Alueta: I'm sorry Dwight, I didn't get that.

Mr. Gamulo: The owner is not prohibited from leasing the land and counting it as farming income on the land?

Mr. Alueta: Leasing the land?

Mr. Gamulo: Leasing.

Mr. Alueta: No, I can't think of it at this point.

Mr. Gima: I think for those of us who went to the HCPO Conference in Kaua`i two years ago, this is consistent with the theme of that conference at that time which was trying to discourage the gentlemen estates and trying to come up innovative ways to reinvigorate the ag business industry. And I think this is good because without it, I think you'll have more and more gentlemen estate or decrease the number of ag lands. And it will go against I think a lot of the planner's priorities in that sense. Okay, any further questions, comments on this amendment? We're done with all five already?

Mr. Alueta: Yes we are.

Mr. Gima: Okay, let's take a 10 minutes recess and we'll come back with public testimony.

(The Lana`i Planning Commission recessed at approximately 8:15 p.m., and reconvened at approximately 8:25 p.m..)

Public Testimony

Mr. Gima: We're back in order. We're going to go with public testimony. First to testify is Ron McOmber and followed by Fairfax Reilly.

Mr. McOmber: Good evening. My name is Ron McOmber. As most of you know, we have several units on Lana`i that fall under, as far as I can tell, something that's different than what is being presented here tonight. My suggestion to the Lana`i Planning Commission is let Maui handle their Maui problems. I really believe that we need to talk about Lana`i specific. I was looking – while I was sitting back there listening to the testimony – I was reading what was coming down from Kula Community Association. I think you got a copy of that, that they oppose any bed and breakfast stuff. They were kind of against it, and they want –. These new regulations are going into effect and be enforced by the County right away. I thought it was interesting on page #2, definitions, and then I went back to the whole Maui application and I've only found the wording once. But this is what I understand when I took my vacation rentals, which are not vacation rentals, they're short term rentals. They've always been – I understood it to be short term rentals. That's why I got and paid for my TAT tax, my State tax – my State tax, I pay at a rate, I think, it's 11% on my gross. My definition, my understanding of short-term rental is anything that's under 180-days. It doesn't say five days. It doesn't say anything else other than it rented less than 180 days. I thought I was in compliance. That's why I put advertisements at the airport. I don't have to advertise anywhere else. I don't advertise on the internet because I've got more business than I can handle just from what happens on Lana`i. The Lana`i specific. Like Alberta said one of our biggest customers is your recreational Kamaaina traveler that comes to Lana`i and uses it for fishing and hunting sports and comes back and see our beautiful bay at Hulopoe; comes back to visit their families; come back have funerals; come back and have vacations with their families – just a (inaudible) of things.

Our situation on Lanai, and I really believe and I think we discussed this with the GPAC, that this has to be discussed and has to be brought forth in the Community Plan. And all people who do these kind of business need to come when we do the Community Plan, and we need to discuss it. It's an intricate part of Lana`i. It just has nothing to do with million dollar homes. It has nothing to do with \$250 a day per person. Most of us make a poultry amount of money. We rent our houses and it's not our personal houses. Most of these

houses would never be on the market for rental, and a lot that you hear is we're cheating long-term rental.

With the houses that I have are old plantation houses which are 60-years old or older. They're in the neighborhood where you folks live. And what keeps them alive is we keep people in them. The people who own them no longer lives here. They are the adult children of the families who were here earlier, and they've moved back to the mainland. The children moved to the mainland, the parents have passed away. They don't want to sell the homes. They want to keep them, for what ever reason, they come back and use them for vacation. They come back and use them for nostalgia. They send their friends from the mainland. We have a totally different situation – what's going on in Paia or Kula – any where in Maui. And I would imagine some of this stuff is going on Moloka`i too, and in Hana.

So my suggestion to this Board or this Commission – sorry, I don't mean to call you Board – this Commission, that we come up with a word. You could use short-term rental if you want to. But we should come up with a word different than B&B. I don't like to be lumped into B&B. I'm not a B&B. I'm not a vacation rental. I was a little disappointed that the County that all it wants is lumping B&B and vacation rentals together. At one time, it was totally separate. There are people on this island that do B&B and they advertise on the internet as B&B. The County should go after those people that do not have B&B licenses and make them comply with the ordinance that's already in place. If I was advertising a B&B, I would expect that would happen. I do not do that. So my suggestion and after listening to what the County had said – the County has a bad thing here. This is not going to be fun, and it could run for months. Short term rental is one word. I understood when I got – I understood my operation is short term rental – less than 180 days. That gave me the capacity to rent it for a month if I wanted to or three days if I wanted to, or one day. Everyone of you know that 60% to 80% of the people who come on this island to do business on this island, whether it be a contractor, a nurse, a doctor, an extra fireman, there's always somebody in one of our houses that needs to have a house for one night or two nights. And if we didn't have that, we wouldn't have those services on Lana`i because they would have to pay \$200 and something a night in hotel somewhere on Lana`i, and it would be a hell of a strain on their budgets. Again, I'm not pleading that(Inaudible. Changed sides of tape) . . . I think Alberta was right that this Commission needs to do that. And then, with the Community Plan, we're going to address that, and we will do that. And I'll take any questions that you have.

Ms. Kaye: Ron I have a question. You just said you didn't think we needed a special ordinance. I think we might. I think that's what Joe was trying to say that if in the Community Plan process, we determine that Lana`i should have short-term rentals – that's a good phrase – then it would be his responsibility to help us draft an ordinance that would

put a permitting process in place.

Mr. McOmbler: Well, it would still be an ordinance. But in that ordinance, it would be a special ordinance for Lana`i in particular because you wouldn't – I guess you'd call it a special ordinance for Lana`i, but I think it would pertain to Moloka`i too. I think once Moloka`i sees this, it might pertain to them, or even Hana in some cases. But we're definitely not – we should not be lumped into vacation rentals and B&Bs. I'm against that. I don't believe we are. And if any of you who lived in any of my – near any of the places that I rent to people, what have I've always told you, I said if you've got problem with these people, let me know, and I'll be the first one to knock on their doors. It is in conjunction and most people love Lana`i and they love doing this. So it's a plus for Lana`i and think about the business folks. And I don't mean to do this to put pressure on you folks and say well if you don't do this then the stores are going broke. But, it is an asset to the whole community – everybody. Thank you.

Mr. Gima: So Ron, are you asking us to ensure that TVR ordinance is separate from the B&B ordinance, or are you suggesting that the TVR ordinance should be specific – we should add specific language to Lana`i?

Mr. McOmbler: It should not be TVR. It should be something else. You should call it something else because it's not TVR. It's not vacation rentals. It's short-term rental. And see that's what I get my license. That's what I pay my tax on – is short-term rental. If you look at the license on my wall at my house, it says short-term rental. It pays the TAT tax – transient accommodation tax. Now that might be something else you call it – transient accommodations because that's what my license says from State – it's a TAT tax.

Mr. Gima: Okay, stay here Ron. Joe, can you comment on if there's any differentiation between short-term rental and TVR?

Mr. Alueta: Same smell. Same thing. TVR or anything less than 180-days is transient accommodations – TVR – transient accommodations. Whatever you want to call it, that's what it is.

Mr. McOmbler: But then they put the argument with that Butch that it's part of the B&B. It should not be – it should be separated from the B&B. It has nothing to with B&B. I object to it being lumped with B&B first of all. Now if TVR is less than 180-days, then you can call it TVR. But my license tells me – that I get from the State – is short term rental. It's a TAT tax – is what my understanding was.

Mr. Gima: Okay, so you're okay with it as long as TVR ordinance is separate from B&B ordinance?

Mr. McOmber: Yeah, and I'm not saying that we want a free ride. I mean I'm willing to pay. I'm paying my taxes now, and I'd also like to be able to get the license to do it in an easy way without having to dance for six months and spending lots, lots and lots of money to do that. I mean, if you go into a neighborhood and say you're going allow so many of these and so many square feet or so many 1,000 or 100 feet, well, that's acceptable to me because then you don't saturate a neighbor with it. So I'm in agreement if they want to do something like they did with the liquor and other things, there's an area that you can have so many within a radius, and I don't have any problem with that because we don't need to saturate the town. So you might look at it that way too. But the most important ones if you do that, the notification would go out to the ones that are touching the property – physically touching the property – not down on Lana`i Avenue when your house is up half way to Fraser, you know. The five or six or eight houses that touch should have the most say so if that operation is going into place. That's who they're going affect more than anybody else in the neighborhood. Thank you.

Mr. Gima: Okay, any questions for Ron? Okay, Fairfax Reilly, followed by Mike Hunter.

Mr. Fairfax Reilly: Good evening, my name is Fairfax Pat Reilly. I appreciate what you guys are trying to do tonight. To me, it's very complex and I don't know how many days you guys have on it. My preference would have been, as Chair Gima kept asking, how does this apply to Lana`i? After listening to this, I still don't know how it applies to Lana`i. You have State Statutes. You've got the County. You've got State Land Use, State Statutes, County ordinances, County zoning, Lana`i and Maui County General Plan, and the Maui and Lana`i Community Plan which is in the process of being revised. I think the issue before was do you want – this is an ordinance that Maui County Council and you're going to make a decision for all of Maui County – Lana`i, Moloka`i and Maui. I'd have a difficult time doing that. I'd want to know how it exactly applies to Lana`i, and we all know that in this community, by the nature of land ownership that there's only one economy that really benefits local entrepreneurs and that's the local rentals during the hunting seasons. I know that some of issues have to do with housing. In other word, if a domicile is rented as a transient or a short term, it's not available for permanent housing. And yet at the same time, we need more housing for transient people, for County, State workers, for people who come for recreation. But I think the way this is going to go is the decision is going to be made at the Planning Department for Lana`i – unless you guys are going to say well every permit that comes up for a Conditional Permit, you're going to sit and hear the permit. But to me, it has to appear before, in a context of the coming community plan, not the existing community plan. So I would have a very difficult time moving this forward and having the Council pass this – what I use to call a monster ordinance – that I don't have any clue exactly how it's going to impact Lana`i at this point. And I would think that some concept of Lana`i being – you may want to take provisions out of the ordinance and use it for Lana`i, but to me, there should be an ordinance that's directly on Lana`i. And

hopefully the Commission would gain some local control over that decision as to how these permits were granted and released. I can't even image a 20-room bed and breakfast or TVR. On Lana`i, it doesn't make sense to me. All right, thank you very much.

Mr. Gima: Thanks Pat. Hold on. Any questions or comments for Pat? Mike?

Mr. Michael Hunter: Good evening. My name is Michael Hunter. I've lived on Lana`i now for, I think, 21 years. My wife is here and my son. My family participated in a bed and breakfast operation that would run for 17 years. We've had vacation rentals here. When we first came to Lana`i, people wondered why we even wanted to come to Lana`i. It was just a pineapple plantation. Came and worked for the Company. Worked for different private individuals. When that fell through, we were left with either finding alternate means of feeding the family or leaving Lana`i, and so we chose to start a bed and breakfast and vacation rental. We were basically dealing with hunters for most of the years, and we've operated for 17 years. We paid our taxes. We've paid over \$100,000 worth of taxes during these last 17 years and we've never had a complaint.

From the beginning, before there was a bed and breakfast ordinance, we took part in this procedure, and for the last 17 years, we've been coming to meetings like this. And if there is one thing that's prevailed through it all is the theme that the testimony from people on Lana`i has been continually ignored. And I think just having been to the last Planning Department meeting when Mr. Alueta made a presentation, you can see how you made recommendations, and you've ignored them. And you have to wonder why public testimony is overridden by – what's it called from the articles that they have written? – we spoke to experts in the field. Well, who are these people that you spoke to? Wouldn't I be considered an expert having a run a bed and breakfast for all those years? We lived in our house running a bed and breakfast. We raised their children. We know what that's like to live in the same structure.

To cut to the chase, when the bed and breakfast ordinance was finally put through, it basically a prohibited ordinance. The original ordinance was designed to empower people like ourselves – small business people, small people who wanted to live in their house, raise their family and have a visitor and share aloha. But, as that process went forward, from the very start, there's been people in the Planning Department that have been against it for whatever reasons. They refuse to sort of acknowledge their own studies that they've done. The Planning Department did studies regarding how much housing was taken up by bed and breakfast and vacation rentals. When that came back showing them that it was a very, very small percentage, they ignored that. So I can go on and on about through the years how these things have been ignored.

Here we are today, and it seems to me that the General Plan, the Community Plan is the

place to address this issue. And so what I would say to you here is no, no, no. And the reason I would say no – I'll just start with the bed and breakfast issue – Mr. Alueta would have us believe that they're making it easier for the bed and breakfast to operate. In some ways that's true by a permitting process that they're now moving to an administrative level. Well, if past performance is any indication, there's people that have been waiting for six years for a Conditional Use Permits to be processed in Maui County, and they've refused to deal with those. So how do we have any confidence that they're not going to drag their heels with things like that? That's just one issue.

The other issue is if this is the Planning Department, how can they possibly come to Lana`i and not know of our needs? How can they not know that we need vacation rentals? How can they not know that we need bed and breakfast? We already have one landowner. They should be very much aware of that. They seem to be ignorant of that fact. So in some ways they don't have very much creditability. What I would say to you is say no, we don't want this. We want to decide our own future as far as the bed and breakfast go.

I'll try to move forward just quickly. As far as Lana`i goes, as from what I can see, vacation rentals, we don't have a rural area where that would affect us. We don't have vacation rentals or we don't have homes in the agricultural areas so people won't be able to do a business there. What we're basically concerned about is just in the Lana`i City. And so, there should be some over-sight and there should be some consideration for the needs of people that perhaps don't want to see tourists around. But, you know, this idea of an us and them mentality has to change, and the idea of sort of clustering up people in one little area saying that you can't come over here, it almost sounds like racial segregation. And I would say that, you know, if we just looked at Lana`i, we'd say, we need bed and breakfasts, we need vacation rentals, and need to make sure that needs of the community are being met. So I would ask you to say no – give them a big no – and say we don't want this ordinance, lets deal with it ourselves.

Mr. Gima: Okay, thank you Mike. Any questions or comments for Mike? All right. Thank you. Last call on public testimony on B&Bs and TVRs? Okay, Winnie.

Ms. Winnie Basques: Good evening everybody. It's sudden to me that why the County come now. Why didn't you folks think about this about 10, 20 years ago when people had established their areas already - vacation and bed and breakfast – why now? I think it's a little too late because you're talking about places like residential area, business area – where are they going to go? They don't have other places to live. The don't have other places to put their house – like down by the hotel area? I don't think so. Because why? They make the living there. They established a place when it was here in the 1930's, 1940's, 1950's. Please do not do these kind stuff. People have been living. Of course, they have their children to think about. But now, as the economy is going so great how

can kids live on the outside island when there's no job available. Over here, yes, over here as well. The jobs here are so crucial. People – the kids have to live with their parents to make ends meet. That's why maybe they have to have bed and breakfast and vacation rentals to rent out the area so they can support the kids. We need to have that kind established here on the island because why? I've seen a lot of changes. I've been here over 45 years. A lot of changes come and go, but where do they go? They're here only to stay here. A`ole hanahana. That means no more work. No more money. Stay with the family. They were suppose to move out 18 years when they graduate from school, but they still here yet. Why? Why is it that? How come you folks make this kind issue now when they've established their grounds? The ground means that they stay here for 20 something years. They made what they made. They established the money to support the kids. I sorry to say, it's wrong time, but we have to wake up and think about the issues that goes on the island of Lana`i. Yes, it's growing, but what about our family, our ohana?

I thank you very much and I hope you folks you can do your folks hanahana too as well. I congratulate you guys for doing all this work, but then something will have to come out of it. I hope it's a good, positive attitude as well as a recommendation for – please like you say – Mike say – no. Do not give up the bed and breakfast. Because why? I have friends who come here. They are hunters. They can not stay at the hotel. They can not gut their gear over there. That's why they have to have bed and breakfast and vacation rentals. Where are they going? I can already see them, they going down to the beach area for do that kind stuff. I would do the same if there was no place else to go. But remember, please, think about it. If you folks sleep tonight, I hope you have a good sleep, and mahalo again.

Mr. Gima: Thank you Winnie. Any questions/comments for Winnie? All right. Okay, we're now closing the public hearing on the various proposed Bills. I'm sorry – Gary – come up.

Mr. Gary Suzuki: Aloha, my name is Gary Suzuki – resident here since 1980. I can kind of say I'm from here – my blood from here – my two side – my grandmother's side – long time resident. First of all I'd like to thank all the board members and everybody else who came for support like that. I no fully understand what really going on but is it true that all this time people coming here and staying at people's houses, that's illegal? Do you need a bed and breakfast permit for it to be legal? Can I ask questions? Is it illegal with what's been happening all this time?

Ms. Suyama: If people are coming to other people's homes right now and they're getting monetary compensation which is you pay to stay at somebody's house, it is illegal if you did not get a bed and breakfast permit. There's a permit process that is required for you to legalize it in terms of zoning. However, and these are for the people that are living in

the house and inviting people to stay at their home. In other words, they're still residents of the home, versus somebody that has house, an extra house somewhere, and they're just renting out to people and no one is living in the house. In other words, the family is not living in the house. That is not permitted unless you got what we call a conditional use permit. The bed and breakfast, you know, if it's a real bed and breakfast, where the family lives, there's what is called a B&B permit that's issued. However, the County agrees – you know the Planning Department agrees that the permitting process is very restrictive. It's where it's like there's three types of permits and each type comes from an administrative which is the department issues the permit. Then you have the ones with three and four bedrooms –.

Mr. Suzuki: Okay, okay. So, if like everybody wanted for be legal, they got to apply for this bed and breakfast thing and you saying that it's restrictive and then not going happen then?

Ms. Suyama: No, what it is that –

Mr. Suzuki: Going take years?

Ms. Suyama: No, it depends on what –

Mr. Suzuki: It's not going to be able to accommodate everybody.

Ms. Suyama: It's not going to be able to accommodate everybody.

Mr. Suzuki: Okay, yes. So if people come over, you tell them come, you don't know them, and you got to tell them just leave whatever – or no need pay – and that's how you're going to make it legal? If they come to your house, you rent one room to them, and you ask for money, it's illegal?

Ms. Suyama: Yes.

Mr. Suzuki: So we all understand that we all illegal here. So now what are we going to about this to accommodate Lana`i people so that we not going not going jam up.

Ms. Suyama: What we had –

Mr. Suzuki: In other words, I put my trust in you guys, we can kokua over here. I know these going kokua so we can make things pono.

Ms. Suyama: Can –

Mr. Suzuki: Or is there any way that we can come to something that when can –

Ms. Suyama: Okay, maybe I can explain it this way.

Mr. Suzuki: Yeah, cause we all not going be able to get the permit.

Ms. Suyama: What I'm saying is that for the bed and breakfast people who actually live in the house and have guests come to their homes, we're proposing an easier method to get that permit which is essentially you come to the Department and you get the permit. So it's administrative. You don't have any of this where you got to go through a public hearing and you don't have to go to Council to get an ordinance to get it done. And that's what's been one of the biggest problems is that if you wanted to have a bed and breakfast, you have these three layers and most people fell in the upper two layers that required public hearing and required either the Commission's or the Council's approval, so that took months to get through the process – it's a long process.

Mr. Suzuki: Thank you.

Ms. Suyama: The other ones which are called the transient vacation rentals, right now, there's no legal way to do it unless you get this conditional permit which is at the Council level. The County Council has to approve it.

Mr. Suzuki: So, yeah, I understand that. Well, I hear on the TV long time ago that people in Lani Kai or where ever that area they was grumbling because people buying houses, they renting them out, making big noise, everything – okay – so they started the grumble I guess. I not sure, but, then went to the Maui level. You know how everything work – they keep coming – they keep coming and they still building. I understand we're just doing our job too, but I still really honestly feel that only one guy I know, one rich guy up here now, that bought one house and is making money – you know, rent out room kind – only one. We stay so many years behind all this already, so I think we should hopefully try come to some kind of conclusion where it will benefit everybody and we all no get shut down or have to run illegally. And thank you very much for everybody's time an aloha.

Ms. Suyama: Can I clarify one thing for the Commission? If the majority of the people on Lana`i lives in their homes and they want to rent their rooms in their homes to visitors – whether it's like their friends from other islands, hunters, fishermen, whatever – the bed and breakfast ordinance would cover those people. In other words, they could get permitted and legalized. The ones that are going be – the one that are going to have difficulty are the ones that are not living in their homes. Like on Maui, there's a lot of them that are like that. Their homes, you know, that are strictly being rented out, no one is living in the homes. It's not a resident that's operating. A lot of times, it's a realty company or

management firm that is operating these businesses for these, what we call absentee owners. So if Lana`i's situation is different where it's mostly residents that are running these bed and breakfast, then you should support the B&B, the bed and breakfast ordinance, because it would make it easier for people to get their permit and it will legalize them.

Ms. Kaye: Could I ask a question about grand-fathering in, if you will, or people that have potential numbers of people that perhaps haven't gone for permit or gave up in the process, and now you're going to streamline the permitting process. There's no we're not going give it because you've been operating illegally. It's going to start fresh if this ordinance would pass, there's no penalty for past violations?

Ms. Suyama: What it is, is you can not grandfather something that was never legal.

Ms. Kaye: Right. But I'm saying, you know, you have a list, maybe you suspect people never went for a permit, but now that's going to be easier, they will – it's okay.

Ms. Suyama: We're not going to penalize people for coming in. The thing is – the only time that our Department actually enforces the zoning is based upon a complaint. In other words, if your neighbor complains against you, we're not going to tell you who that person is in the Department, but as long as we get an official complaint through our office that somebody is operating an illegal business whether it's a transient vacation rental or bed and breakfast, we will at that point, send an investigator out, a zoning inspector out. If you come in – once this ordinance goes into effect – and you come in and say I want to apply for a bed and breakfast ordinance, we're going to make, much as possible, trying to get people legalized. We're not going to say, well, you were operating illegally, so we're now going to fine you or we're going to make it difficult for you. That's not our intent. Our intent is as much as possible that those people that can be legalized, go through the process of getting legalized.

Mr. Suzuki: That sounds good. Who when grumble about this? And is that's why you guys are here? You said, we no do this, we no do that, but when the guys grumble, then we come.

Ms. Suyama: This is a County wide ordinance and this is something –

Mr. Suzuki: You guys – when somebody grumble, you guys go to the different island enforcing this because like what when happen at Lani Kai or where ever.

Ms. Suyama: Or whatever is happening on Maui right now, and in some cases on Moloka`i also, but –.

Mr. Suzuki: Thank you.

Mr. Gima: Thank you Gary. Any further questions/comments to Gary? It's still like you want to say something Gary.

Mr. Suzuki: Yeah, get something here that is not right yet. It feels kind of wrong, but hopefully -. It sounds as though, we like do some -. We couldn't -. It was never legal so all this time it wasn't legal and all these people coming here that is supporting our community - a lot of them I can say, and a lot I can not say - but a lot of the community is based upon this hunting coming in. So by doing this, I don't think it's fair that or you can apply for one B&B and you know you can go on this list or whatever and we're going to make it easier for you, but not everybody can because you not going put that many permits out, and you've got to restrict to this, restrict to that and that a lot of -. Okay, say I get one house and hunters come in - a group of eight - so I get one other house that I was renting out to the hunters that's my means of income, that it's illegal all the time - our bed and breakfast - or I got to live over there while they stay over there, if I get the permit.

Mr. Gima: Gary, there's two ordinances or laws that we're considering. One, is the bed and breakfast where you rent out the room -

Mr. Suzuki: It's -

Mr. Gima: Wait, let me finish - let me finish, okay? It's hard for the person to transcribe when two people are talking.

Mr. Suzuki: I'm sorry.

Mr. Gima: So if you have the B&B where you reside in the home and you rent out a room, that's one Bill that we're considering. And then there's another Bill having to do with transient vacation rentals where you rent out rooms but you're not living in that house.

Mr. Suzuki: Which is illegal right?

Mr. Gima: If you don't have - right.

Mr. Suzuki: And you can not make something grandfather that -. So basically that's what I was saying is when you said you still like say something is that what I kind of say is we no can do nothing. So basically what you're telling us what we can do and what going make it easier for us to, but we still in the same boat. We still going be without the or.

Mr. Gima: There's -

Mr. Suzuki: The river – without the paddle. So basically, I'm just saying I hope that, you know, something good can come out of this, and I hope it doesn't, you know, have a real big impact to everybody and –. Yeah, I'd like to thank everybody.

Mr. Gima: Okay. Thank you Gary. Okay, anyone else wishing to testify?

Ms. Thelia Salazar: Hello, can you hear me back there? I want to thank all these local residents for coming to this meeting tonight, and I applaud you for dealing with this difficult situation that's come up. I attended the meeting on Maui. It was –

Mr. Gima: Excuse me, could you state your name please?

Ms. Salazar: I'm sorry. My name is Thelia Salazar and I am a part-time resident of Lana`i. I'm a health care professional on Maui, and I try to spend as much time as I can here on Lana`i over the last 10 years. I bought a place three years ago, and after owning a home here for one week, I was approached by a major corporation to rent my place – short-term rental – begging me to let them have my house. They were the people with Trailer Pacific – the people that were building the harbor – repairing the harbor from the hurricane damage and they were in dire need of short-term rentals. They couldn't complete the project unless they – and I understand they rented about, I think, about five homes on the island and crammed as many people as they could into homes. I think it's essential for Lana`i to have it's own separate classification for rentals.

When I attended the meeting on Maui, it was a totally different climate. And what I understand and I'm cautioning this panel and I'm discouraging you from taking or accepting this plan is that the current administration on Maui is trying to restore the neighborhood environment and take away the TVR's – illegal TVR's as they call them – and keep the TVR's – eliminate them and keep tourism separate from the neighborhoods – sort of restore the culture to Maui. Lana`i is a whole different ball game. I just think, in land mass we're much smaller, and Maui is a whole different climate. Lana`i is much more ohana. I know there's a lot of people who are doing TVRs or Bed and Breakfasts or whatever you want to call them – short term rentals – for years, and it is a lively hood. I can tell a lot of these people, they're hunters, you know, or they're trying to raise their children by making a little extra money and they didn't think they were doing anything wrong. It's essential to Lana`i to keep itself separate from Maui. I think there's a political agenda going on Maui that is separate from what Lana`i is all about, and I really encourage you to create some other kind of panel to address Lana`i uniqueness – keep it unique – allow us to do our short-term rentals when we need to. We're not doing anything illegal, and thank you for working hard on this.

Mr. Gima: Okay, any questions or comments? Thank you very much. If there are no other

persons willing to testify. Mike, I give you three minutes.

Mr. Hunter: I just wanted to make a clarification. You know, one of the reasons why the bed and breakfast ordinance that was originally put into place didn't ever take off was I was talking about very punitive measure in there, and in the case of Lana`i which I'm just going to focus on. You know, we all have very small pieces of property compared to everywhere else. And so the restrictions that were placed in regards to two-, four- and six bedroom bed and breakfast were such that it made it almost impossible for a lot of people to even participate. So when you look at the intent of the law – the intent of the law was to empower us, but, you know, I'll say it like it is, the Planning Department always had an agenda against this and so they've been kicking and screaming all the way through this process. And every time they step forward, they'll say, we're trying to make it easier. And at the same time, they'll hamstring you. And this is why the County is in Court right now. They're being sued because they continually bring in these little areas. They say this is where you have to go and we start to head in that direction, in terms of compliance, and they'll move the goal post sort of speak. So in the case of Lana`i, we all testified that we needed a smaller lot sizes. We also have parking issues. We have a four-bedroom, four-bathroom home that we run as a bed and breakfast. We live two houses away. So as I said to you before, we lived in our house and did that for 14 years. When we were faced with you have to have off-street parking, we said, well, we'll move our bed and breakfast. So we moved two houses down so we could off-street parking. Well now, we're faced with six off-street parking stalls that have to be paved. We have 140 foot piece of property that runs along Lana`i Avenue where there's ample parking in front there. But nevertheless, the County would have us pave half of our lot. So these are the issues why people have just refused to come forward because they realize that one hand you're saying well we want to make it easier for you, and the other hand, they're hamstringing you.

Mr. Gima: Okay, thank you Mike. Any questions/comments for Mike? Okay, I'll close the public hearing, and back to you Joe, and maybe you can summerize and let us know how to proceed procedurally on each proposed Bill. Sure.

Ms. Suyama: One of the things is that, you know, he's saying the Planning Department is not supportive of the bed and breakfast and that is not true. I think a lot of the people that are in the Planning Department is supportive of bed and breakfast operations, and there's two reasons why. One, it still remains a residence with a family living in that residence. And, you know, it does allow, you know, that under certain circumstances, the family to have additional income by doing the bed and breakfast. However, you know, we also agree – that's why we proposed some of these changes – is that the process of getting a bed and breakfast permit was very onerous and it made it very difficult, and that's because of this three tier permit process. And that's why we tried – you know, in our proposal, we're trying to say, do it more as an administrative function in the Department rather than going

to the Commission or the Council. And only under other certain circumstances like your neighbors within 500 feet of the proposed bed and breakfast protest the establishment of the bed and breakfast or there's another bed and breakfast that's within that 500 feet that's already in operation that you at least go through a public hearing process which allows the public to testify and make their voices heard as to whether they want to see this bed and breakfast there or not, you know, because of potential impacts that may be occurring. Because maybe it doesn't occur here on Lana`i, but on Maui, there's a lot of communities or areas that are residential that is predominately changing to basically vacation rentals. So in other words, the residents are moving out and all you're getting in return are people that are just visiting, and that's a big problem on Maui. So, you know, we're saying is that okay let the bed and breakfast, you know, have an easier process to get there. And for the transient vacation rentals, like because of how the General Plan and the Community Plan is written, they're basically saying that the visitor industry should be in designated areas. And on Maui what we established is that those designated areas are the resort communities – those that were specifically designed and proposed as resort communities like Wailea, Kaanapali, Kapalua, Makena, Kaluakoi on Moloka`i – that these are resort communities, resort destination areas and that's what it's intent was. And in those areas, yes, because it was planned that way, would allow vacation rentals to occur.

Moloka`i and Lana`i maybe different because there may be other factors, and we're still willing to look at what those, you know, differences maybe and how we can maybe incorporate it into the TVR ordinance. But to me, at least the bed and breakfast ordinance would allow those other people that are really a bed and breakfast operation to have an easier process to get legalized. That they don't have to go through this whole Commission review. They don't have to go through the Council review to get a bed and breakfast approval done. What it is, it leaves, you know, up to – because it was established in the bed and breakfast ordinance, six-bedrooms are allowed – that we would allow that primarily through an administrative function unless there is some impacts, either the neighbors, you know, the neighbor perceive or an impact by having more than one bed and breakfast in the neighborhood, and it allows for public review.

The other issue about the TVR is, you know, still open. But I'm hoping that the Commission at least will support portions of these Bills. Like, one, is the bed and breakfast ordinance, that would at least allow certain things to happen. The other one, because it primarily wouldn't affect Lana`i, is allowing, you know, the bed and breakfast to be expanded into the rural and the agricultural districts because that basically will affect more Moloka`i and Lana`i – I mean Moloka`i and Maui because there's not many rural lots that's existing other than in the resort community, and you don't have the prevalence of agricultural subdivision on Lana`i. So those two ordinances really wouldn't affect this island. We can still work on the transient vacation rental ordinance and see how we can accommodate the other islands or the rural islands that are not the same as Maui. And

I think the Department is willing to investigate those types of options and further discuss it with the Lana`i community as well as the Lana`i Planning Commission. We're not closing the options. We're saying that those ordinances that really do not affect you as much or will affect you in more of a positive way, to let those ordinances go by, and we still work on the transient vacation ordinance, or the proposed Chapter 19.38.

Mr. Alueta: Thank you Colleen. If I may Mr. Chair, I just want to comment on a couple of things. The testifier said was if you look at the B&B ordinance, one of the concerns/issues was, you know, lot size. Our proposed amendments eliminates the restrictions of the lot sizes, and basically allows for someone who does have a small lot to apply for a B&B permit. Where prior to that, you couldn't. So, you know, had they read the ordinance, maybe they would have saw that.

Again, parking, the discussions at the Planning Commission and we're supportive with the Planning Commission, was the elimination of the paved parking and to allow for grass crete or even for the potential for grass parking as oppose to just paving. So again, they claim to be there, but, it's whether they listen to the whole discussion – that was part of the discussion.

So as far as the local "bradda" – I feel for you – I understand you know with the paddle. The only paddles I get is the General Plan and the Community Plan. That's all I get. You know, we're open to it. We, again, believe that, you know, what we have in the existing General Plan and Community Plan, is all I get in steering need towards the drafting of ordinances, this is what we came up with.

And yeah, Lana`i is unique. Every island is unique – the way I like to look at it – but I'm writing ordinances for three-island county. These ordinances, I feel create the best balance for all three islands at this time. It does not preclude Lana`i in doing their Community Plan process, to put in language that would guide me to draft new language for specific ordinances that you want for Lana`i, and I think there's a potential there. As my Deputy Director indicated, you know, if it's within that TVR guideline.

So I will dive back into the meat of the issues or the ordinance, as far as changes, amendments and proposals. So, like I said, the only one I heard during discussion – and like I said, we were going through it quickly and we were trying to avoid – if you had any proposals and recommendations for the ordinances – the only one that I had, so far, was on the . . . (Inaudible . Changed cassette tapes) . . . essentially provided or gave false or misleading information, knowingly over, you know, those ones. I believe Commissioner Kaye had other ones, but I'm not sure how you wanted to proceed Mr. Chair.

Ms. de Jetley: Mr. Chair, may I make a comment please?

Mr. Gima: Sure.

Ms. de Jetley: What I'm hearing from the people who testified is we are in a really unique situation on Lana`i. What's happening on Maui does not pertain to us at all. And it seems as if the general idea is that we should work on our own ordinance during the Lana`i Community Plan. So for us to go through and rehash what's going on Maui –. The Maui ordinances – you're looking at – it's taking maybe another year or two years with tons of public testimony and we don't want what Maui has. We want our own ordinance specific to this community. So instead of going through all of this stuff that pertains to Maui, couldn't we possibly maybe schedule a workshop meeting with the Planning Staff and the general public to do our own ordinance? Why do we have to stay with Maui?

Mr. Gima: Are you suggesting that for all five proposed Bills or specific Bills?

Ms. de Jetley: Yes. Yes, because, you know, and you keep – there's the short term rentals, there's the transient visitor accommodations, there's bed and breakfast – you know we could possibility put all of Lana`i things into short-term rentals and get everybody on Lana`i who wants to do short-term rentals legal almost immediately. And the one lady who testified, one of things on Maui that people keep complaining about is that when people rent out their houses for short-term rental or as a transient vacation rental, it's not available for long-term rentals for people in the community. She's never going to rent her house out as a long term rental because she's using it herself. And you know, it gives her the option of using her place or not using her place. If she has a short-term rental coming in, then she stays on Maui I imagine. But none of this Maui stuff pertains to us.

Mr. Gima: Bev.

Ms. Zigmond: Joe I'm confused on something that you said. It sounded like for the TVR, you want us to approve this but "bum-bye" you'll help us integrate our own TVR measures with the General Plan.

Mr. Alueta: Yes, and I also want you to be critical of the ordinance that can do you harm. Meaning, I don't want – I understand that Lana`i is unique and the Bills that would impact you the most as the Chair likes to point is how does it impact positively or negatively to Lana`i? Okay, well, the TVR ordinance, right, will sort of negatively impact you, right, if you don't make a provision for Lana`i, as Commissioner Kaye pointed out. The Conditional Permit prohibition, right, can potentially create a problem for Lana`i because – and for any transient vacation rental – because that is the only legal way in which they can get. So if we close that door –. If you close that door and, you know, community plans dilly-dally and take a few years longer than they're anticipated – okay – that essentially closes the door for them to come in because you haven't drafted any community plan

language that would help the existing TVRs on the island.

Ms. Zigmond: I understand all that.

Mr. Alueta: Like I say, from the B&B standpoint, it doesn't negatively impact Lana`i because the B&B ordinance is there now. We're making it simpler for other people who never qualified for the B&B, to potentially come in and the restrictions that limits some of these people from qualifying, could come in. Same thing with rural and ag.

Ms. Zigmond: I'm just surprised that you were supportive of us doing our own thing because I didn't hear it at first, and then I thought I heard it now, but I'm not.

Mr. Alueta: I'm not supportive? I am. In supporting you, right, for me to be able to draft any language that's specific, right, to a community plan or ordinance, I have to have something to – I have to have a paddle. Okay? And my paddles are the General Plan and Community Plan, right. Your community plan is silent. You don't give any language to say go ahead and do it. Just because you guys think it's a great idea, well, that's fine, but that's not what I base my ordinances on. I have to have a community plan and General Plan. And I can tell you right now, the General Plan doesn't exactly support, you know, what you want. That's why I need more guidance in the Community Plan language. And what I'm trying to do is tell you that yeah there are ordinances in here that could potentially hurt you because you guys liked certain amount of TVRs. And so I'm trying to guide you where there could be potential amendments for Lana`i within these existing Bills that can at least do you no harm.

Ms. de Jetley: Joe, I think, you're not getting our message. It's that we don't want to take the ordinances as they're written, and amend them to suit what we want because down the line, we may miss something.

Mr. Alueta: And I don't want you doing that either.

Ms. de Jetley: We may miss something that will have a critical impact on our community. And this community, we need all of the bed and breakfasts and short-term rentals that we have to accommodate our families and our friends and past island residents who have been coming to this island for a long, long time. We need them and we want them.

Mr. Gima: Any other questions or comments from a procedural standpoint? For example then, if in fact, a, Bill for ordinance to amend the bed and breakfast ordinance – if the Commission chooses to have an ordinance specific to Lana`i, they would have to make a motion to exclude Lana`i from this first proposed Bill? Is that the procedure?

Mr. Alueta: Is that for the 19.38 one – the TVR one?

Mr. Gima: 19.64. A on your agenda – A Bill for an ordinance to amend the bed and breakfast ordinance – Chapter 19.64.

Ms. Suyama: The only thing I'm going to have to caution you is that if you exclude Lana`i from 19.64 which is the current bed and breakfast ordinance – it other means, no one on Lana`i can get a bed and breakfast permit. They can not legalize themselves. The other thing is, the same thing with the TVR Bill, if you exclude Lana`i, there is no way anyone will get a transient vacation rental because there's no provision for it in the Code. That's why my recommendation was you could defer the transient vacation rental and the conditional permit ordinances because those two will affect how, you know – I mean, whatever the outcome from Lana`i, will affect the affect the outcome of Lana`i. The bed and breakfast ordinance already exists so people already can get a bed and breakfast on Lana`i provided that they go through the permit process. And the only thing we're doing is streamlining that permit process to make it easier for people to go through that process. And the rural and ag portions which allows bed and breakfasts will not affect you because you do not have rural designated lands that are inside of Lana`i City. You know, you have it in the resort, I think primarily Manele Resorts which has the provision through project district to have some vacation rentals in there. And you do not have agricultural lands that are, you know, hindered by agricultural subdivisions where people are doing ag subdivision and building houses on it. So those two Bills will not affect Lana`i currently.

Mr. Gima: Sally, let me say one thing. One thing that's jamming me up tonight is we have five things. Is there a reason why we had to do five things at once as oppose to doing TVRs one meeting, B&Bs another meeting because we're bouncing back and forth and I'm having difficulty keeping track what important information refers to which proposed Bill?

Mr. Alueta: No, but the only reason they were done as a package because they are interrelated in some fashion and that's why we wanted to show that we are addressing this as a comprehensive issue, not just as a piece-meal issue. Okay? But you can, you know, deal with these on a piece-meal or to try to at least digest it one chapter at a time.

Mr. Gima: Okay, Sally.

Ms. Kaye: Having gone through this a year ago, I would have to agree that the bed and breakfast ordinance, as written, would only help because it takes out the three types of processing you have to go through. I don't see no reason to penalize people who live on the island now and want to operate legally by trying to start over from scratch. So, that's just my opinion because we did this before and this is a much cleaner process than the first one was. And I also think in terms of rural and ag, I don't think that impacts us and I

don't think it hurts us, so I'm not sure why we'd want to reinvent the wheel in that regard either.

Mr. Gima: Matt, Jim, Dwight – any comments?

Mr. Gamulo: What's our – there's four or five? There's five yeah. What are our options on each? Same as always?

Mr. Alueta: Same as always. I mean I think you focus on the changes are to each Bill and make amendments or reject them, or approve them, or like I said, there's numerous options.

Mr. Gamulo: Okay. Thank you. I have a suggestion that the first that we consider doing what Sally said. There's certain ones that we can just – can we just make no recommendations on the agricultural and the rural permitting process? Can we do that? Apparently it doesn't affect Lana`i right?

Mr. Alueta: Yeah, you can make any recommendations.

Mr. Gamulo: Does anybody have thoughts on that? Don't make any recommendations for those two?

Mr. Gima: Make no recommendations or make a motion to –?

Mr. Gamulo: Yeah, make a motion to not make any recommendations for those two.

Mr. Alueta: So just send it on, you mean?

Mr. Gamulo: Yeah. Or do you want to deny them or do you want to deferral them – defer them?

Mr. Gima: If you defer that means we'd have to come back and discuss it again.

Mr. Gamulo: Yeah, I don't see why we can't just – if it has no effect now and we can address it later in the Community Plan, then – and we don't know how it's going to effect us really – then why approve it or disapprove it?

Mr. Gima: James, can you comment on that? If we take no action – do have that option on what Dwight is suggesting?

Mr. Giroux: I think what you want to do is make a comment that you don't feel that those sections affect you and you don't see any large errors in thinking as far as those

procedures not being effective or harming you in any way or affecting Lana`i negatively. Those are probably comments that, if accurate, you could put into a statement, and then move the Bill along, to give some guidance to the decision makers in Council. I don't think you want to do a motion of non-action. I don't think that's something you want to do.

Mr. Gamulo: No recommendation – you can't just say we make no recommendation on the proposed Bills because we don't know what the effects will be because right now they don't affect us, but in the future, they may, and if they do, we can address it in our community plan later, when they come up again.

Mr. Giroux: Because from what I'm hearing is that you're talking about B&Bs in the rural, and B&Bs in the –

Mr. Gamulo: Agricultural.

Mr. Giroux: Agricultural. And you don't see –

Mr. Gamulo: Any negative effect.

Mr. Giroux: Yeah. But as far as a statement –. Your opportunity is to make comments on these, and you can comment on them whether they affect you or not. It's legislation. It's legislation that's going to affect all three islands. So they're giving you the opportunity to make a comment on it.

Mr. Gamulo: Okay, anybody else feels the same about that?

Mr. Elliott: I just wanted to say that, Dwight, it seems to me that there's no down side in approving something that doesn't affect us in any way. I mean, that's my only thought to that. We could just do and it's a non-issue. I just wanted to express the concern that I have because I think there's no question in my mind that what we really need is what Ron McOmber suggested – we really need to have some kind of a local determining process by this. And I think that's what an awful a lot of people are really reacting to is that we want to be able to deal and react with things ourselves because so many things are – how we get to there it seems to be where the real problem is. But at the same time, I also see another potential issue here, and that is we need to think about things that would seem to be on Lana`i, both in terms of short-term or long-term issues. And where most of us are dealing with this right now on a short-term basis because a lot of people that are affected in a variety of different ways by what's going on here now. But it also occurs to me – and one of the reason why I was interested in being part of the Lana`i Planning Commission is because we don't yet have a lot of the problems that have already developed and happened on the other big islands of Oahu and Maui and all the other

places – and I thought what a great opportunity to try and make some decisions to prevent ourselves from having these problem long term. And the only – and one of the thoughts that I had is that Pat Reilly said it earlier and he said, you know, we’re dealing with the short-term rental issue, but there’s also a housing issues, and a couple of the concerns that I have is to make sure we don’t kind ourselves in a situation. Because I don’t think there’s anybody on Lana`i who’d be very excited if corporations all over America started coming in and buying up all the homes in Lana`i and started to rent them out, and there would be no controls on that whatsoever. I think all of a sudden we’d have a real big problem on the island of Lana`i if that were to happen. So we have some long term considerations to not leave ourselves unprotected, and some control fashion for what’s going to happen on this island. And the problem that I’m having right now is just I know a concern that most all of us would have on the island – we’re not like Maui and it’s pretty tough for us to have somebody sitting over on Maui making the decisions that are affecting what’s happening on this island. And so I don’t know. I think Commissioner Kaye came up with something earlier about how we do need to have some kind of – if there is a way – to get some kind of wording that we have some special way to have some control on what decisions are made on Lana`i – that there’s some kind of process because I think we need that. I think we don’t want a decision made here that’s going to be harmful to our community – for sure – that’s what we’re hearing here tonight. But we also don’t want to make a decision that’s going to be harmful to our community 10 or 20 years from now, and that’s what I’m concerned about. And that’s what our Planning Department is over there working pretty hard to try and get some control factors that I think eventually we’re going to need here. So any rate, I don’t have the solution other than I think Commissioner Kaye came up with something at the very beginning of the meeting that suggested that if we could get some kind of permitting process or something that somehow involves the island of Lana`i, then Lana`i residents could somehow engaged in the process. That’s what I’m hoping for. Thank you.

Mr. Gima: It’s about 9:30 right now. Tell you what, how about we work backwards. Let’s go with e), a Bill for an ordinance to amend Chapter 19.29.030 relating to the rural district.

Mr. Gamulo: All right. I say we make – I think, we ought to make no recommendation on approving this because we don’t know how it’s going to affect us later on and we want to address this in our community plan. That’s what I think – for this Bill.

Mr. Gima: Sally? So you just want to provide that comment with this item?

Ms. Kaye: Dwight, are you making a motion?

Mr. Gamulo: No.

Ms. Kaye: No.

Mr. Gamulo: . . . (inaudible) . . it should contain, and if you like that, then I can make that motion.

Ms. de Jetley: I would like to see it deferred and wait so that we can work on it in the Community Plan.

Mr. Elliott: I look at this issue and I did look at the Community Plan, there's two areas of rural district right now – some down in Kaunalapau Harbor, in that vicinity – and that's all we have on the island of Lana`i. And my preference, again, Dwight, would be that we go ahead and approve that because we know that doesn't affect anybody/anything one way or another, and I just don't see how it would hurt us if we simply voted. I won't make the motion, but I hope to hear somebody else say something.

Mr. Gima: So Dwight, you're aware that if we just submit comments and the other Planning Commissions approve it, it will pertain to us. Everybody is aware of that?

Ms. Kaye: Would it be possible for us to say that or entertain a motion that after review, we had no objections to this particular Bill as written? I so move.

Mr. Elliott: I second.

Mr. Gima: Okay, it's been moved by Commissioner Kaye and seconded by Commissioner Elliott that we provide the Planning Department comment that we have objections to the proposed Bill for ordinance to amend Chapter 19.29.030 relating to the rural district. Okay, any further discussion? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose?

Ms. de Jetley: Oppose.

Mr. Gima: Okay, motion is carried.

It was moved by Commissioner Sally Kaye, seconded by Commissioner James Elliott, then

VOTED: To approve the Bill for an Ordinance to amend Chapter 19.29.030 relating to the rural district, with no

objections after reviewing the Bill.

**(Assenting: Commissioners S. Kaye, J. Elliott, D. Gamulo, B. Zigmund,
and M. Mano**

Dissenting: Commissioner A. de Jetley

Excused: Commissioner L. Endrina)

Mr. Gima: Okay, let's move to item d), a Bill for an ordinance to amend section 19.30A.060, Special Uses for the Maui County Code, relating to the agricultural district.

Mr. Gamulo: I propose the same type motion for this Bill. I'm not making the motion. I'm waiting for comments.

Ms. Kaye: I think, one thing that I'm unclear on – Joe, this is for you – the \$35,000 annual income. You said you were considering or a provision there that household income, 51%?

Mr. Alueta: That's one of the provisions that came out of Current Division – that they wanted to have some kind of 51%.

Ms. Kaye: Would that be a comment that I would say we should add – any favorable – that should be considered.

Mr. Alueta: If I'm understanding Commissioner Kaye – we put a threshold of \$35,000 – she wants to add a provision say either \$35,000 in farm income or if 51% of the household income is generated from farm income. Okay.

Mr. Gima: I like that. I like that.

Mr. Alueta: No, I understand that.

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

Mr. Elliott: Second.

Mr. Gima: It's moved by Commissioner Kaye and seconded by Commissioner Elliott that we forward on to the Planning Department that we have no objections to Bill for ordinance relating to agricultural district with the amendment having to do with the 51% of the household income coming from agricultural operations.

Mr. Alueta: Right, on the property.

Mr. Gima: On the property. Okay, any discussions? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Motion is carried.

It was moved by Commissioner Sally Kaye, then seconded by Commissioner James Elliott, then unanimously

VOTED: To approve the Bill for an ordinance to amend Section 19.30A.060, relating to agricultural district with the amendment, as noted.

Mr. Gima: Okay, let's move up to a), a Bill for an ordinance to amend the bed and breakfast ordinance, Chapter 19.64.

Mr. Gamulo: What is this - Chapter 19.64?

Mr. Gima: Yeah.

Mr. Gamulo: I think that we ought to recommend the approval of this. But you know the part where it says owner or lessee – you say you were thinking of changing that to just owner?

Mr. Alueta: Comments out of the Maui Planning Commission in which they actually did agree by consensus on amendments were eliminating the lessee possibility, where they had to be an owner and it could be of any percentage, so it would be, the owner would have to be the applicant for bed and breakfast permit. They also – their other motions that they did take action on was to allow up to two minor children, and they defined minor children as 12 years and younger. They also allowed for a one by one sign to identify the house as a bed and breakfast so that people coming to the B&B didn't drive around the neighborhood and start knocking on people's doors trying to find the bed and breakfast. To allow tandem parking. Right now, to meet their parking requirement, they can use tandem. As well as, they were discussing – and I'm not sure if they finished discussing on the percentage – was allowing grass crete for the majority of the parking, as well as allowing a certain percentage of parking to be on grass only, and therefore eliminating the need for paved parking, to meet the parking requirements for the B&Bs.

Ms. Kaye: I'm sorry, Joe, where in reference to Dwight's question – where would the lessee provision be removed? From where?

Mr. Alueta: 19.64 – they were on page #1, line #40 – they're eliminating that, as well as, page #2, line #1. And basically throughout the Code, where ever it said lessee, we would change out. They wanted to – another thing was clarify – on page #2, line #32, clarify existing structure – pretty simple. They also – page #4, line #14 – they reduced it to 33%. And then again they – line #14 where it says that 40% of the neighbors within 500 feet from the property line – they planned to reduced that to 33% because they felt that 40% was a little too high.

Mr. Gima: So if a motion was made to approve this ordinance, it would include all the amendments that you just mentioned in the last few minutes?

Mr. Alueta: No, I'm just telling you that that's what – he asked some of the amendments, and I'm telling you all the different amendments that came out of Maui that they had agreed on to occur. They haven't passed out – they haven't made a final motion on this, but they did agree on certain amendments that they wanted to see, and I'm just telling you. You can ignore it or include it, but everybody's comments will go up to Council.

Ms. Kaye: I'm glad I asked you about that because I would not agree with taking lessee proprietor out of the picture. I always understood your concern was not having somebody on the property. I think it's overly restrictive to –

Mr. Alueta: I'm sorry. Run that by me again.

Ms. Kaye: For B&Bs, you know, that somebody should be in the house. But to restrict it to just the owner, I think, is –

Mr. Alueta: Yeah. Exactly, and that's why lessee was allowed because if someone may want to have a long term lease and that lessee will come in and get the permit. And again, we made restrictions where the permit holder is going to be the person who's living in the premise and it's going to be in the name of that person. It's not going to be in the name of a corporation.

Mr. Gamulo: Yeah, I think the lessee should be named – whether he has the opportunity to provide long-term housing and bed and breakfast. Yeah?

Mr. Alueta: Right.

Mr. Gamulo: Even if somebody else owns the house. That's why I say lessee should remain in there. And I like the other provisions about parking on the grass, and the tandem parking, the two kids and the existing structure and I don't know about the 33%-40%.

Mr. Alueta: And then the one by one sign identifying.

Mr. Gamulo: Yeah, the one by one sign. I don't know how everybody thinks about that. Anybody else got any ideas? Okay, I make a motion that we accept this bed and breakfast ordinance – that we recommend that lessee – the term lessee remains in the ordinance; that parking on the grass should be, as suggested by the Maui Planning Committee; there should be allowed – tandem parking should be allowed as suggested; two children should be allowed in addition to the two adults; that it's restricted to existing structures – is that, that was?

Mr. Alueta: The existing structure meaning that – they want us to clarify that the existing structure that's already constructed for a single-family use.

Mr. Gamulo: Yeah. Okay.

Mr. Alueta: We'll just clarify that.

Mr. Gamulo: Okay, and then like that.

Ms. Kaye: And I'm going to add another clause that you put in knowingly for the false information.

Mr. Alueta: Correct. Did you catch that earlier – the lines – that knowingly – as far as the violation?

Mr. Gamulo: Right. I include that in my motion. Okay, that's my motion.

Mr. Gima: Is there a second?

Ms. Kaye: Second.

Mr. Gima: Okay, it's been moved by Commissioner Gamulo and seconded by Commissioner Kaye that we approve the Bill for an ordinance to amend the Bed and Breakfast ordinance, Chapter 19.64 of the Maui County Code with the amendments stated by Dwight. Any further discussions? Hearing none, all in favor say aye.

Commission Members: Aye.

Mr. Gima: Oppose? Okay, motion is carried.

It was moved by Commissioner Dwight Gamulo, then seconded by

Commissioner Sally Kaye, then unanimously

VOTED: To approve the Bill for an Ordinance to amend the Bed and Breakfast Ordinance, Chapter 19.64 of the Maui County Code, with the amendments, as noted.

Mr. Gima: Let's go with b, regarding the conditional permit prohibiting transient vacation rental operations.

Mr. Gamulo: I think we ought to recommend denial – not pass it as it's written. That we recommend that it not pass as it is written. My comments is because it doesn't apply favorably to Lana`i.

Ms. Kaye: I wonder if there's a way to – I mean I agree with you 100% – closing the door on conditional permit will be very harmful. Would this, Joe, be – is our choice to say throw the whole thing away or make an amendment to say except in Lana`i District, no transient vacation rental operations – rental operations shall be established?

Mr. Alueta: You would just put down except for Lana`i, so that means that you would leave the option open for a conditional permit.

Ms. Kaye: And that –

Mr. Alueta: That would close the door on Maui and Moloka`i, or at least the way you have it written. And then while in Lana`i, Maui and Moloka`i will decide.

Ms. Kaye: Okay, so, let's assume for the sake of argument we agree this is what we want to do – you take it back – do we get it? Is there assurance that this will actually be carried forward or do we need to add a caviat that if it isn't carried forward that we don't recommend it at all?

Mr. Alueta: No. No matter what you do, it's up to Council. Because all we're going to do is transmit everybody's recommendation up to Council, and Council may say, you know – all three Commissions may say we don't want this or we want to have conditional permits for TVRs and Council may go "no, we think TVRs are a problem, and we're going to shut them down." I don't know what they're going to do. That's their provision. Or, you know, if you put in except for Lana`i, then they may say, "maybe." It doesn't matter which way because I can't read the minds of the Council members. So I would just say put your recommendations as you want it for Lana`i because you are the Lana`i Planning Commission, and we will put that forward to them, and hopefully they will, at least in your provision, there's flexibility for the Council.

Ms. Suyama: Can I recommend something for the Commission to consider? I would recommend deferring the matter because at this point you don't know. Without your final decision on the transient vacation rental ordinance, you don't know whether you still need the avenue for a conditional permit for Lana`i residence. So what I would suggest doing is deferring this Bill as well as the transient vacation rental so that we can look at your comments that's come from tonight's meeting, from both the Commission and the public, and look at whether there's another avenue that could be available to the Lana`i community and maybe come back with a revised proposal to you.

Ms. Zigmond: So you would come back to us with a revised proposal?

Ms. Suyama: We would come back because we would just recommend that at this time you defer the two Bills. We'll look at all the testimony we received tonight as well as the Commission's comments and your concerns regarding Lana`i island and see whether there's another alternative and not close the option of the Conditional Permit at this time.

Mr. Gima: Any objections to that from the Commissioners? Joe?

Mr. Alueta: Just my only concern Colleen is that the current transient vacation rental Bill, whatever amendment you make, it's most likely you're going to do it in relationship with the Community Plan. And so that doesn't open the avenue for a simpler process under the existing community plan and therefore it would have to be established during your next community plan. And that could be – I don't know what the time frame is going to be for that community plan. And therefore, if you – I don't see deferring action as being beneficial to the immediate needs, I guess, you would say. So if you propose to keep it open for Lana`i only, that keeps the Conditional Permit valid, right, for Lana`i until such time if you do come back with a Community Plan, and then I come back with a Bill or in some fashion you step up the procedures, you can then close that conditional permit process after you set up another process. You see what I'm saying? I'm saying is you're trying to keep a door open, one permit type open, for the TVR through the conditional permit because you haven't open that other door.

Ms. Kaye: Actually, I have to agree with Joe. I would do – and Colleen tell me when I'm going off base here but this is so absolute. TVRs are not going to be permitted with conditional use if this part of the ordinance passes. And I understood our community plan process was going to start in January, but you know, at this point, it could take longer. And who knows when you folks will be able to come back with a better process and I fully trust the Planning Department will do that – they'll hear us tonight. I just hate to – that conditional use – I'd hate to see that go away. I don't know why we couldn't deferred the first Bill, but put except for Lana`i. Colleen do you want to?

Ms. Suyama: Because I would like to look at the transient vacation bill in a more comprehensive way, and it's linked to the Conditional Permit Bill because if there's no way we can come up with a permitting process for the transient vacation rental, at this point, then you still want to keep the option of the conditional permit. But I don't think all options have been closed yet. And I think based on the concerns that have been raised, what I'm saying for now is just defer it, let the Department look at the situation again, and, if possible, come back with a new proposal or a revision or something that would accommodate specifically for Lana`i. By hearing all of the comments that came out today as part of the testimony, that we would look at it again, and see whether if there's another avenue that could be acceptable that would still be in conformance to the General Plan and the existing Lana`i Community Plan. And that's what I'm saying is that, give the Department that opportunity because I believe we still have time in which, for this Commission, to still review this ordinance. I mean it doesn't have to make its decision tonight.

Mr. Gima: So basically you're saying come up with plan B on this, not necessarily having to wait for the Community Plan process to start.

Ms. Suyama: Right. Looking at whether there's another avenue that's available for Lana`i island specifically that can still meet the existing General Plan, the existing Lana`i Community Plan, and still be in conformance with the zoning code. So look at that option. If we come back and we tell you "no, there's no other possibility," then I would say definitely don't take the conditional permit option away for Lana`i residence.

Mr. Gamulo: Can we recommend that disapproval for the Conditional Permits and – no, I mean defer – the first one – defer 29. No 19.40 is conditional permits. We don't want that right?

Mr. Gima: Colleen is suggesting we defer item b and c under the public hearing.

Mr. Gamulo: Okay. Defer both?

Mr. Gima: Because both refer to the TVRs.

Mr. Gamulo: Why can't we do them separately? Because we definitely don't want to get rid of the conditional permits under any circumstances at this point.

Mr. Gima: Right, by deferring, we're not getting rid of it. The Planning Department is proposing that they'll come up with some better language based on our comments.

Mr. Gamulo: So are you saying we can not – to defer the TVR – defer that and disapprove

the conditional permit – you can't do that?

Mr. Alueta: You can, if you want to make that motion. It's just that the Deputy Director had tried to explain, we want to take another crack at potential language within the 19.38 transient vacation rental ordinance that would potentially open another avenue, another permitting avenue, for Lana`i because, you know, like I say, we're opening up avenues on Moloka`i and Maui for TVRs but we haven't figured out any way on Lana`i. If we do that, then you may want to deny the conditional permit process if we come up with a better way for Lana`i. So our recommendation at this point is to defer those last two so that we can have another shot at it.

Mr. Gamulo: Okay, moving right along. I make a motion that we defer 19.40 – recommend deferring 19.40 and deferring 19.38.

Mr. Mano: Second.

Mr. Gima: Okay, it's been moved by Commissioner Gamulo and seconded by Commissioner Mano that we defer Bill for ordinance to amend Chapter 19.40 and to defer a Bill for ordinance relating to the permitting of transient vacation rentals, Chapter 19.38. Okay, any further discussions?

Mr. Alueta: Just to be clear, items b and c on your agenda.

Mr. Gima: Items b and c under item #1 under public hearing. Okay, any further discussion? Hearing none, all in favor say aye.

Commission Members: "Aye."

Mr. Gima: Oppose? Okay, motion is carried.

It was moved by Commissioner Dwight Gamulo, seconded by Commissioner Matthew Mano, then unanimously

VOTED: To defer the Bill for an ordinance to amend Chapter 19.40, prohibiting transient vacation rental operations from being established via the conditional permit, and to defer the Bill for an ordinance relating to the permitting of transient vacation rentals, Chapter 19.38.

Mr. Alueta: Thank you.

Mr. Gima: Yes, Bev.

2. **MR. RALPH MASUDA, Vice-President of Planning and Zoning of CASTLE & COOKE RESORTS, LLC requesting an amendment to the Special Management Area Use Permit and Project District Phase 2 Approvals for a 5-year time extension on the period to complete construction of the Manele Residential and Multi-Family Development at TMK: 4-9-017: 001, 002, 003, 004, 005, and 4-9-002: 049, Manele, Island of Lana`i. (95/SM1-015) (95/PH2-001) (P. Fasi) (A time extension was previously granted by the Lana`i Planning Commission in 2003.) (Previously discussed at the March 21, 2007 meeting.) (Public hearing conducted on September 19, 2007 and further discussed on October 3, 2007.)**

The Commission may take action on this request.

Ms. Zigmond: I don't know if this is the time and place – almost the place – but I don't know if it's the time to do this now. It is way late - 10:10 p.m. and while I certainly don't want to revisit this topic of the five-year extension, I was wondering if we can defer this because it's going to be a really long night. I don't think it's going to be done quickly. . . (Inaudible. Changed cassette tapes) . . .

Mr. Gima: . . .(Inaudible) . . .

Ms. Suyama: It is actually up to the Commission. We generally were trying to get out by 10:30 p.m. , but we do have our pilot here. He's been patiently sitting and waiting for us.

Ms. Zigmond: I would bet it's going to be a least another hour - just on that one topic alone – maybe longer. We have lots of questions.

Ms. Suyama: If you can do it hopefully within that hour time, I think the Department would stay back to try and get some resolution to this issue. But it's still the Commission's call as to whether they still want to continue because it is a late night.

Mr. Gima: How do the rest of you guys feel?

Ms. de Jetley: I don't think it's fair to the applicant for us to rush through so we've already deferred this several times, but we're not going to be through in an hour. We're not going to be through at 11:00 p.m. so I would propose that we defer it and we put them first on the agenda at our next meeting.

Mr. Gima: Sally?

Ms. Kaye: We didn't set this agenda. I mean it's unfortunate that there was so much especially the pressing things. The TVRs take up a big chunk of time on all the other islands so it's just unfortunate that the agenda got set this way.

Mr. Gima: So you're leaning towards –

Ms. Kaye: I'll wait to hear what everyone else thinks.

Mr. Gima: Any comments Matt? Dwight? Jim?

Mr. Elliott: I think I'd rather begin the process and maybe know at the very worst we would find out where there was any major difference or anything, but I think we need to –. I'm just aware of the fact that this group – and a large group has been here – this would be their third meeting, and I just think we should really start the process. I don't think we should –. I agree with that totally, but we're used to going to at least till 10:30 p.m. I mean, I don't know.

Ms. Zigmond: . . .(Inaudible). . .

Mr. Elliott: I guess, but –

Mr. Gamulo: I think we ought to defer.

Mr. Gima: Then we need a motion.

Ms. Zigmond: I make a motion that we defer the action on the five-year extension for Castle & Cooke.

Mr. Gamulo: Second.

Mr. Gima: Do you want to add Alberta's suggestion?

Ms. Zigmond: Yes please.

Ms. de Jetley: I can. Do I amend it?

Mr. Gima: No, she can do it.

Ms. Zigmond: And if we can, have that as the first item on our agenda on our meeting

which will be, I guess, November 3rd, or whatever that first day is.

Mr. Gamulo: I second.

Mr. Gima: Okay, it's been moved by Commissioner Zigmond, seconded by Commissioner Gamulo that we defer unfinished business item #2 regarding the five-year time extension and that we place it on the November 3rd agenda as the first item to be discussed. Any discussion? Sally?

Ms. Kaye: When we say the first item, I'm going to assume that we're going to do GPAC from 6:00 p.m. to 7:00 p.m. Right? Doesn't that come first? Or do you want to do it? I just want to be clear how the order will flow because I understand from the rules that the Chair has the option of setting the agenda and I don't want to see us get jammed up again next time with things we've let go. So how do we control it?

Ms. de Jetley: Do we have enough public notice to have it start – have the meeting start at 6:00 p.m., and have them as the very first item at 6:00 p.m.?

Ms. Kaye: I think public hearing part of this request is already been had, so I'm not sure.

Mr. Gima: Alberta would you be able to propose to what we've been doing lately is doing GPAC from 6:00 p.m. to 7:00 p.m. and then take this up as the first public hearing item? You wouldn't be oppose to that?

Ms. Kaye: Question about public hearing, whether we can take the extension request at 6:00 p.m. or do we wait till 7:00 p.m.?

Mr. Giroux: I'm not sure if your agenda has gone out for the next meeting. Has it? If it hasn't it could be made clear on the agenda. And our Long Range said that you guys are pretty far ahead of the rest of the pack as far as your schedule for your policy.

Mr. Gima: Why don't we go with what we've been doing – 6:00 p.m. to 7:00 p.m. GPAC, and the 7:00 p.m., five-year extension would be the first item taken up. It will start at 7:00 p.m. Okay? Any further questions or discussions on the motion? Okay, hearing none, all in favor say aye.

Commission Members: Aye.

Mr. Gima: Oppose. Okay, motion is carried.

It was moved by Commissioner Beverly Zigmond, seconded by

Commissioner Dwight Gamulo, then unanimously

VOTED: To defer the Castle & Cooke's five-year time extension request to the November 7, 2007 meeting as the first item for discussion.

E. COMMUNICATIONS

- 1. 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 meeting.)

F. 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.

- 2. Chair's request to consider the implementation of zoning for properties designated Open Space in the Lana`i Community Plan.**
- 3. 2008 Meeting Schedule**
- 4. Open Lana`i Applications Report.**
- 5. November 7, 2007 Presentation by the State Office of Planning on the Coastal Zone Management Program.**

Ms. Zigmond: Just a couple of things that have fallen by the wayside also – I don't know if we'll ever get to them – all the other things such as the SMA exemptions, the MOA workshop and the Housing study which nobody seems to have remembered because of all of this stuff we've been doing. Remember we were suppose to have the Department of Housing and Human Concerns come and talk about the housing study? Could we just not forget about those at some point?

Mr. Gima: Okay, let's move on to Communications then and what's the Commissions preference on this item? Who is suppose to be drafting proposed legislation on this?

Ms. Zigmond: You promised us you would draft legislation similar to Moloka`i on us reviewing the SMA exemptions.

Mr. Alueta: Correct. I did. I sent it up to Corporation Counsel. It's up there. I have the letter signed and I dropped it off, and I personally walked it up. So it's up there. I do not know who's – it might be Michael Hopper or I don't know who your thing is assigned. And as far – I want to comment on – I see that you were circulated an exemption list.

Ms. Zigmond: Which we can't understand.

Mr. Alueta: Which I looked at and I was like it can be improved on to say the least, and I'll talk to with the person who generated it to improve the output as far as description of what it is because I'm looking going, I have no idea, and I know who all those applicants are so we'll get something better for you.

Mr. Giroux: Butch, as far as that, I can check with our office, see where the assignment has been made.

Mr. Gima: Bev, do you want something specifically done on that SMA Exemption?

Ms. Zigmond: . . . (Inaudible) . . .

Mr. Gima: Okay. That's good.

Ms. Kaye: Can I just please that there's on Director's Report, again, there's a presentation by State Office of Planning for the same – for the next meeting – correct? So that means we're going to do GPAC, and the extension request, and then Office of Planning? How substantive is that presentation? You don't know.

Mr. Gima: OSP is going to come do the presentation?

Ms. Suyama: Office of Planning because they're in charge of the coastal zone management program for the State. As part of their responsibility as the agency that, you know, basically has oversight on the program, they've asked to make presentations to both the Maui and the Lana`i Planning Commissions. And I believe on November 7th, it was proposed for, you know, the Lana`i Planning Commission because they have their own time table also – the State. The only thing I can suggest is that because you have not only the Lana`i Company time-extension, you still have the two ordinances to deal with, is maybe – and because you're ahead – you're not behind in terms of your policy plan. I'm not sure – Erin come – whether we can move it to, that portion, to the second meeting in

November.

Ms. Wade: At this point, the Lana`i Planning Commission is several sections ahead of the other two, so even if you wanted to take a break for one meeting from the Policy Plan, I think you could probably safely do that and then stay on track with the rest of the Commissions. Only one though.

Mr. Elliott: I just wanted to make a comment. I hope everybody is aware that the second November meeting is scheduled for the Wednesday before Thanksgiving. I suppose everybody's planning – okay. I'm going to be long gone on that time, but I didn't know if anybody else was either. I guess it's not a problem.

Mr. Gima: So are you suggesting that the we put in the CZM program presentation in the GPAC slot.

Ms. Suyama: Right, do the CZM in place of the GPAC. Right.

Mr. Gima: From 6:00 p.m. to 7:00 p.m. As long as OSP knows they only have an hour.

Ms. Suyama: Right. And we'll notify them that because of your scheduling that they have one hour to do their presentation – not more than that.

Mr. Gamulo: So if we go on that schedule, when are we going to finish? Are we going to finish at our proposed – our finish line hasn't moved back. Is December the second – the third Wednesday in December we're still going to finish?

Mr. Gima: You mean the GPAC?

Mr. Gamulo: Yeah.

Mr. Gima: Erin is saying we're ahead of schedule.

Mr. Gamulo: I know, but I want to know exactly what that means.

Ms. Wade: Both the other two Commissions have just completed Land Use, and you're two and half sections ahead of them. So basically they're taking much longer to review the documents. And to get them up to the same speed is – we're scheduling actually special meetings for those two groups. So they're going to each need an additional special meeting to get caught up with you. Based on your schedule, I think you're pretty close to being right on time. But there are a couple of weeks of cushion built into that time period as well. So if we need to have a meeting, include one in December, where we can complete your work, we can do that.

Ms. Kaye: So my understanding is we're going to do Office of Planning, 6:00 p.m. to 7:00

p.m., Castle & Cooke extension request 7:00 p.m. to whenever, and then if there's time left over, we do a GPAC section. Is that right?

Ms. Suyama: No, we're not going to do GPAC.

Ms. Kaye: No GPAC at all. Okay.

Ms. Suyama: So maybe we can get through the rest of your agenda.

Mr. Gima: I think Bev asked earlier about the Department of Housing and Human Concerns – can someone in the Planning Department take the responsibility of finding out what the status of their survey and/or presentation is?

Ms. Suyama: I can follow up with Vanessa Medeiros who's the Director of Housing and Human Concern about what time would be the best time to try and schedule it with the Lana`i Commission.

Mr. Gima: Okay, anything else under the Director's Report that you want to comment on? Okay, so our next meeting is November 7th. Everybody is clear on the agenda. Everybody is going to be here? We'll have quorum? Okay, great! Thank you very much everybody. Good work!

G. NEXT REGULAR MEETING DATE: November 7, 2007

H. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 10:20 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN
SECRETARY TO BOARDS & COMMISSIONS I

RECORD OF ATTENDANCE:

PRESENT:

Reynold "Butch" Gima, Chair
James Elliott
Dwight Gamulo
Sally Kaye

Beverly Zigmond
Alberta de Jetley
Matthew Mano

EXCUSED:

Lawrence Endrina, Vice-Chair

OTHERS:

Colleen Suyama, Deputy Planning Director
Joseph Alueta, Administrative Planning Officer
Erin Wade, Staff Planner, Long Range Division
Julia Staley, Staff Planner, Long Range Division
Paul Fasi, Staff Planner, Current Planning Division
James Giroux, Deputy Corporation Counsel