

**LANA`I PLANNING COMMISSION  
REGULAR MEETING  
JUNE 18, 2008**

*Approved 07-16-08*

**A. CALL TO ORDER**

The regular meeting of the Lana`i Planning Commission was called to order by Chair Sally Kaye at approximately 6:05 p.m., Wednesday, June 18, 2008, in the Lana`i High & Elementary School Room L-16, Lana`i City, Hawaii.

**B. INTRODUCTION OF NEW MEMBERS - LETICIA CASTILLO, DARLENE ENDRINA, and GERALD RABAINO**

Ms. Sally Kaye: Okay, I'm going to call to order the June 18<sup>th</sup> meeting of the Lana`i Planning Commission. Let the record show we have quorum with Commissioners Gamulo, Zigmond, Rabaino, de Jetley, Ruidas and Kaye. We're waiting for Letty. And I think our new member, Darlene Endrina, is not going to be with us tonight.

**C. RESOLUTION THANKING OUTGOING DEPUTY DIRECTOR COLLEEN SUYAMA**

Ms. Kaye: Next is a resolution thank outgoing Deputy Director Colleen Suyama. We're very unhappy that she's leaving us.

WHEREAS, Ms. Colleen M. Suyama has served the County of Maui with distinction and with a high degree of professionalism as Deputy Director of the Department of Planning for the County of Maui from January 2, 2007 to June 30, 2008; and

WHEREAS, Ms. Colleen M. Suyama began working for the County of Maui as a Planning Aide on February 10, 1975; and

WHEREAS, Ms. Colleen M. Suyama has been a professional planner with more than 30 years of experience with the County of Maui; and

WHEREAS, Ms. Colleen M. Suyama will be retiring from the County of Maui on June 30, 2008; and

WHEREAS, Ms. Colleen M. Suyama has contributed greatly to the profession of land use planning and the economic development of the County of Maui; and

WHEREAS, during Ms. Colleen M. Suyama's tenure as Deputy Director of Planning, the Department of Planning has strived to improve its internal efficiencies; now therefore

BE IT RESOLVED, that the Lana`i Planning Commission hereby commends Ms. Colleen M. Suyama for her dedication and service to the people of Maui County; and

BE IT FURTHER RESOLVED, that the Lana`i Planning Commission does hereby expresses its deepest gratitude and appreciation for Ms. Colleen M. Suyama's services and does hereby extend its best wishes

in her future endeavors; and  
BE IT FURTHER RESOLVED, that copies of this Resolution be transmitted to the Honorable Charmaine Tavares, Mayor of the County of Maui; and the Honorable G. Riki Hokama, Council Chair of the Maui County Council.

And I know that we are going to miss you terribly. And I understand that Joe is going to, in the interim, be you. Is that correct?

Ms. Colleen Suyama: Not any speeches, but thank you for the Resolution. It's been a pleasure working with the Lana`i Planning Commission – you know, coming here at least once a month. And in the interim, Joe will be manning the Commission until a Deputy Director is found for the Department. And hopefully my successor will continue.

Ms. Kaye: That's a very big smile you have on your face Colleen.

#### **D. APPROVAL OF THE MINUTES OF MAY 21, 2008 MEETING**

Ms. Kaye: Okay, next on our order – Colleen I don't know if you want to open that tonight or take it home with you and open it.

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

Ms. Kaye: Okay, we have approval of the minutes of May 21, 2008. I'll entertain a motion to approve the minutes.

Ms. Beverly Zigmond: I move that we approve the minutes of May 21, 2008 meeting with the amendments that were transmitted to Leilani.

Ms. Kaye: Did everyone get a chance to read them for those who were here at the last meeting? Okay. Second?

Ms. Alberta de Jetley: . . . (Inaudible. Did not speak into the microphone.) . . .

Ms. Kaye: Okay, discussion? Okay, all in favor?

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

**VOTED: To approve the May 21, 2008 meeting minutes with  
amendments as noted.**

**(Assenting: Commissioners D. Gamulo, B. Zigmond, A. de Jetley,  
G. Rabaino, S. Ruidas.  
Excused: Commissioners: M. Mano, L. Castillo, D. Endrina.)**

**E. UNFINISHED BUSINESS**

- 1. MR. JEFFREY S. HUNT, Planning Director transmitting a Bill for an Ordinance repealing Chapter 19.02 of the Maui County Code and adding Chapter 19.02A regarding Interim Zoning Districts. (J. Alueta) (Public Hearing conducted on May 21, 2008.)**

**The Commission may take action on this request.**

Ms. Kaye: Okay, next is Planning Department transmitting a Bill for an Ordinance repealing Chapter 19.02 of the Maui County Code and adding Chapter 19.02A regarding Interim Zoning Districts. This was on the agenda last month, and we deferred because we didn't have the benefit of visual aids which Joe has brought with him tonight. So Joe.

Mr. Joseph Alueta: Thank you very much. As you know there's the issue with the Interim zoning Districts. That there's currently is no standards with regards to the setback and height limitations within the interim districts. And currently they're regulated, at least housing wise, they're regulated through the Housing Code, which is currently being repealed. And so this is very similar to what we had with the rural district where we needed to establish certain standards, or development standards for these things, and they were missing. For some reason they were never incorporated as far as setback and heights. On Maui, we had an issue where we had a tower put in an interim district, in which they put a 199 foot tower on a 6,000 square foot lot. It was very controversial. So it's one of those things where we need to at least try to establish those standards for homes. And the intent of this Bill is not to make it any worse. It's to correct the loop holes that we have in the Ordinance now. That some of those loop holes are being covered by the Housing Codes, but not all of them. And there is already an existing interim standard. Whatever land you have as interim are currently regulated by those standards. And so the proposed Ordinance doesn't make it worse. I just want to make that clear. It helps and actually protects certain areas.

There is no zoning map. Per say, there's no zoning map for Lana`i except for where you had specific zoning – where there was some kind of comprehensive zoning, such as in town or at the project districts for the Manele and Koele areas. It's not like where on Maui, you have large – there's no island wide zoning maps. When the State Land Use came in, basically, and comprehensive zoning for the County of Maui came in, whatever was not specifically zoned, that went to a default category called interim zoning. And that's where

you have this interim zoning provision. So areas that we do have certain zoning are in town where you have your areas of specific zoning. Also there were two comprehensive zoning times where the County said if you are community plan ag, right, you're automatically zoned ag. So what I brought to you is this is a community plan map. It's a copy of what you have in your existing community plan. So all of this land that was community plan ag was automatically zoned community plan ag – it was automatically zoned ag. That was automatically re-zoned to ag.

Ms. Kaye: Maybe we should all just come around and look at that because just for you to talk about without seeing it doesn't really make any sense.

Mr. Alueta: Okay. Once I explain some of this – these two issues – then maybe we can take a short recess to come up and take a look at it and then we can discuss it. And the second area where you had comprehensive zoning was in the rural districts. For the establishment of rural, County Rural, either RU1 or RU5 – at the time it was just RU5 – you had to meet certain criteria. And one was you had to be County Rural, State Rural – I'm sorry, excuse me – Community Plan Rural, State Rural, and you had to be less than 15 acres, and you had to be County interim. Okay? So if you look on – I'll point to your State Land Use side. On the State Land Use side, you do have rural. So if you look on there the light-blue on this map. This is a State Land Use designation map. So you had several parcels that were rural. On your Community Plan map, right, you have only one area that's rural, and you'll come up and take a look at that. But at the same time, they were greater than 15 acres. So there was no comprehensive zoning of rural. At least we have not identified any specifically at this time. The way we confirm zoning is when an individual parcel come comes in, they come for a zoning, what we call a zoning confirmation. And at that time we do an individual parcel to parcel check to see what that zoning is. And that's for all parcels in the County of Maui, but at the same time, specifically like areas like Lana`i and Moloka`i and some of the rural areas of Maui where we don't have a broad band zoning map for those areas. So that should be that.

I'm not sure if the Chair wants to take a quick break for them to at least look at the map.

Ms. Kaye: Let me ask you a couple of general questions for me and the rest of the Commission, and especially for our new member here tonight. How did this happen? How does it all of sudden those little parcels get zoned rural? Who asked to have that happen? When did it happen? Do you have any—?

Mr. Alueta: On the State Land Use side?

Ms. Kaye: Yeah.

Mr. Alueta: When the State Land Use blew up their maps, what criteria they used, I'm not

familiar with. It would be the same thing –. I mean there's a criteria with the State 205 that says what they thought was going to be rural. But as you know this was done back in the, most likely in the late 1960's to early 1970's. And I do not know what the thinking was at the time. And given the fact that Lana`i, in its unique situation, is that all of the land was owned by one land owner for the most part.

Ms. Kaye: But it's my understanding that actually the land owner at that time went to the Land Use Commission to get those zoning parameters in place. I'm just curious about rural. Is that something that the State Land Use Commission would decide on its own?

Mr. Alueta: Yes. The State Land Use Commission during their district boundaries would determine conservation land. So it would identify the conservation lands in which the DLNR has complete control over. Agricultural lands and the rural lands – ag and rural lands are jointly regulated by the State, primarily, and DLNR also, as well as the County because we have our own rules on that. So we're able to overlay something that's similar to, but no less restrictive than the State. And then in the urban area, urban designated areas, that's the sole domain of the County in which we will then zone it specifically some category. And for whatever lands that did not get zoned by the County, by either a specific ordinance or by a land use zoning map, by ordinance, fell into a category called interim. But the County did not know exactly what specifically we would use or we had planned to zone it at this time, and it just fell into an interim category. And certain standards were established for that. Now remember, even though it was zoned County interim, if the underlining zoning was conservation – excuse me, it was agriculture, right?

Ms. Kaye: State?

Mr. Alueta: State Agriculture right. That use or that land use designation and those restrictions by the State in 205 was the under pinning most restrictive use. So even though in the County interim district, they have single-family residents of 6,000 – if the State is Ag then the best that they could do, right, is it would be one acre ag lots, but they'd have to have ag. Because the State right now, a minimum lot size for ag is actually one acre. So they would have to meet that minimum standards.

Ms. Kaye: So there is nothing, if I'm understanding you correctly, there's nothing on Lana`i that is only interim? It all has an underlying State designation.

Mr. Alueta: Like Urban Interim – there is no – as far as we can tell, there's nothing that has urban interim. Because you went through a comprehensive zoning for most of your town, I believe. You had your BCT zoning and all of that. If there's something that's urban, we do not identify them at this point. And so like I say, the only ones that you have interim are going to be, that's underlining, is this State Ag and State Conservation on your back side where you designated it as open space. So in that case where it was designated as State

Ag – excuse me, it was State Ag, and you had it on your community plan as open space, right now, it would be County interim with a State Ag underlying with a community plan of open space.

Ms. Kaye: Which takes precedence?

Mr. Alueta: You need all three to dance. So you need to have – and primarily, the most dominant precedence is going to be the most restrictive use which is the agricultural law. You can only do what's allowed. I mean, the least restrictive use is – I mean the most restrictive use is what you could do. So if it's State Ag then you would be subject to State Ag provisions.

Ms. Kaye: Questions?

Ms. Zigmond: Madame Chair? Joe, the interim is like a black hole then?

Mr. Alueta: Yes. That's the problem with it. That's why we're trying to eliminate it.

Ms. Zigmond: Okay. You're trying to eliminate it, and when might that happen and how might that happen?

Mr. Alueta: We are currently, as indicated in my staff report, interim districts has been around since the 1960's. Every time that we tried to eliminate – it gets eliminated when we do such as you had your comprehensive agricultural Bill. That automatically zoned a lot of that interim land from interim to ag. Same thing with the rural district, we had a lot of land that was urban. It was County interim, community plan rural and State rural that was also automatically zoned to County Rural designation. You also have done Comprehensive Zoning in, I believe, when we re-did – I believe when the zoning was done for Lana`i Town as well as for Haiku – some of the areas in Haiku Town around the Pauwela Cannery area. A lot that urban interim got converted – and so it's kind of – and even in Hana. We did some in Hana – the comprehensive zoning in Hana.

But comprehensive zoning eliminates interim. It can get difficult because a lot of people see their uses in interim and they may have a designation on the Community Plan, but they're doing something that conflicts with that. So change is very hard. And also they see that because there's an interim zoning, and that person may have a neighbor or someone in that area may have a different community plan designation, like say business or single-family, and they disagree that, that person should be re-zoned. That creates also problems and road block that we've had where we've been unable to get the comprehensive zoning changed because of conflicts. And change is hard sometimes and when people have been so used to having this interim zoning that they've become accustomed to it. And if you look at the uses in it, some people have a perception that I have a lot of entitlements, which may

or may not be the case. In some areas, it is true. They have more entitlements under than what they would under zoning category.

Ms. Kaye: Interim is zoning category assuming another.

Mr. Alueta: It has a zoning provision. It has its own separate zoning provision. So if you look at Title 19, there is, I think it's called Article 1, and that's called 19.02 Interim Zoning Provision. And that Interim Zoning Provision covers all the interim land. And then you have Article 2, which is 19- it starts with the definitions of 19.04 and it goes on with all your normal zoning categories such as B1, B2, B3. And so it's almost as if it's be crossed out, separate from the rest of the zoning categories. And that's why the goal is to eventually as we go along when people come in for some development entitlement, if they have an interim category, then we require them to come in for a zoning change. A lot of times like in Haiku, you have people who have urban interim, and you can build – if you look at – one of the permissible uses if they're State Urban and you have a County interim, they can build houses one per 6,000. So maybe they have a 20,000 or 25,000 square foot lot, they could build four houses. Now when they get to that fourth house, our law requires once you get to three, you need to do a subdivision and a change in zoning. And at that point we require them to do an appropriate zoning change. And that's where we're getting some of these larger lots. But some people come in and say I don't want to go through that, and they have a big parcel, and they say well I'll just build my three houses and an ohana unit. So you'll have some of these parcels up in Haiku that have like four structures on one parcel. And that's how they were able to get established. But if they ever wanted to subdivide or sell, they would have to go through a change in zoning and at that point they would have to go through a Change in Zoning and at that point, they would have changed it to most likely an R1 or an R2 zoning category.

Mr. Gerald Rabaino: Madame Chair, Gerry Rabaino – for you Corporation Counsel – oh – my question to you – are you referring to like, right now currently, in our Lana`i City where you say they can – about the interim – if my interpretation is correct is that if they have a bed and breakfast in their neighborhood and the rest is all residences – is that what you were referring to versus what I heard you say about agricultural land?

Mr. Alueta: No most likely – it's a different subject from – the bed and breakfast issues are separate from the interim zoning in the sense that you have the County where we did not have a specific zoning map, and we blanketly zoned all of the County interim and created an interim zoning district until such time as the community as well as the County Council got around to adopting a specific zoning map for a specific area. The good thing and the bad thing is that because they did such a pretty decent job with the interim zoning district back in the 1960's, no one felt the urge or there wasn't any panic or fire to change interim zoning to a specific zoning category that was more appropriate. And so as we've gone through these community plans, and people saw the desire to slowly – and the as the

County Planning Department has more staff to work on it, we have gone through and done these incremental re-zoning or elimination of interim district. The reason we're here today is because we have been regulating certain things in the interim district and I also mentioned the rural district with what we call a Housing Code, which is under Title 16. So if somebody came in for a house in the urban interim district, they would be no real setback standards or height standards. Because there's interim zoning district under 19.02 didn't have height and setbacks. How we were regulating them was through the Housing Code which had a minimum setback of six feet side yard and 10 feet for second floor for the setbacks. And that's why if that Code is eliminate then in the urban interim district, there would be no development standards and people would be able to build houses as close as they want to their property line because that restriction or regulation had been eliminated. So what we're doing here today is we're trying to put in the restrictions or development standards that are similar or exactly the same the residential standards that we have in your standard R1, R2, and R3, which also mimics the Housing Code's development standards. So no one is really losing anything, but if we lose the Housing Code, then there's not going to be any setbacks.

Another thing that's missing from the development standard's height restriction on towers. In the interim district, because there was no height restriction, you were able to put a tower up. And in the case we had in Haiku was we had a family on 5,000 or 6,000 square foot lot in an urban interim zoning, and they put up a 199 foot cell phone tower. It created an up roar. And those kind of loop holes in our development standards create glaring problems, and hopefully one of the things we're trying to do is eliminate from having that from happening. And so one of the provisions that we have in here on your interim district with regards to towers would be for the setback to be equal to the tower height. So if you have 50 foot tower, you're going to have to be at least 50 feet from the property line.

Ms. Kaye: The way I read this though Joe, the reference to towers don't appear for single-family duplex. It's only hospitals, universities and churches and parks. So there still is no limitation on a tower height for a single family, is that right?

Mr. Alueta: Okay, remember this is not a single – a tower would not be a single-family. A tower would be a tower. If you remember, the interim district allows all of these uses. They allow single-family uses, a duplex use, hospital, sanitariums, daycare centers, expansion of parks, community centers. So depending, if you're in the urban interim district – I'm sorry, if you're in interim district, this is what your standard would be unless there was a more restrictive underlining State zoning standard that pre-empted you.

Ms. Zigmond: Madame Chair? Joe, the tower issue, okay, I'm looking on page #3, it's development standards, item #3 – hospitals, sanitariums, blah, blah, blah, museums, churches, libraries – so any of those things could have a tower or a tower like structure, correct? We're not just talking a utility structure.



Mr. Alueta: It could just be a utility structure.

Ms. Zigmond: Could it be anything other than that? Could it be a tower like structure, like a cross for a church? Because we heard that that church development wanted a 50 foot cross and I'm wondering if this applies to that.

Mr. Alueta: The way it is – if you look at the development standards for section #3, it says tower structures. If we made a interpretation that yeah that was a tower structure then it shall be set back from the property line at a distance at least equal to the tower structure's overall height. So that portion of that tower itself.

Ms. Kaye: Is there a way to define so it doesn't limit to towers? Because if you say "tower" then you open the door to anything that's not a tower, to not have to conform to that height limitation.

Mr. Alueta: Well if you look at the height limitation for building height would be 30 feet. So if it is something that's a building, then it's 30 feet.

Ms. Kaye: If it's not a building and it's not a tower, I can think of other things it could be.

Mr. Alueta: That's a good point. If you want to provide clarity then say that –

Ms. Kaye: No freestanding structure aside from a single-family residence or aside from an existing building? I don't know quite what you would want.

Mr. Alueta: Can you give me some examples of what you're thinking that you're attempting to be potentially regulate?

Ms. Kaye: I think Commissioner Zigmond has just brought up the issue of a cross and you've acknowledged that, that would not fall necessarily under this definition as you proposed it.

Mr. Alueta: It would be a tower structure, would it not be?

Ms. Zigmond: . . . (Inaudible. Did not speak into a microphone.) . . .

Mr. Rabaino: Madame Chair. You're referring to tower – what if somebody puts up a telephone pole that is above 30 feet just to get a good satellite dish up there? Is that considered a tower just to get a good satellite?

Mr. Alueta: If you look at what's allowed right? Tower structures are not – you couldn't just put a tower because you felt you liked the tower structure. You had to put a tower up

because it was part of a public utility, or a tower structure in support of a utility. So if you look at #4, Construction and new expansion of existing parks, playgrounds, community center owned and operated by either public or government agency, tower structures in support of a utility.

Ms. Kaye: I don't think #4 is an issue. I think #3 is the one that's ambiguous.

Mr. Alueta: Then I would suggest one potential thing is that you can strike "the public utility," or strike "towers" all together because it's redundant to #4. The intent is not to be – I see what you're saying.

Ms. Zigmond: I don't like loop holes.

Mr. Alueta: I see what you're saying. I mean, again, this was originally written prior to my birth, so I don't know what the exact thinking was. I'm assuming that they meant with the tower structures was that, again, it was in support of their universities, like say they had to have communication equipment. But if you wanted to strike that area and make that limited to just what is in #4, for tower structures that are in support of communication equipment, for, you know, #3.

Ms. Kaye: If you did that then anyone who came in for – anyone who wanted to erect on their property anything that was higher than 30 feet would have to come in for a variance.

Mr. Alueta: They would have to get a variance, that is correct.

Ms. Kaye: So maybe that would be the perfect solution, just make #3 read that any tower would have to in support of a utility.

Mr. Alueta: Then I would strike "towers" from #3, right, and leave it in #4, where it says "tower structures in support of a utility." So we would strike that one section.

Ms. Kaye: Okay.

Mr. Alueta: And the issues that came up with Moloka`i was that they were concerned that individual owners would want to put up windmills. And so, I'm not saying that's something that you can discuss today, but that is one option that may come up here in discussions at Council – is that to encourage windmill facilities – that they may create these same standards such as come up with a height for windmill structures to be allowed – like an electrical generation. Is that an issue you have concerned with – as long as it's a utility or –

Ms. Kaye: I'm sorry, I don't understand how you're jumping to a single-family resident

wanting to put up a windmill – correct? But this doesn't – the tower's provisions where they are currently are inserted in here, don't even speak to single-family residences.

Mr. Alueta: These are just all of the different development standards. So if you had a single-family lot, I mean, you had an interim lot, you can do a single-family residence on it, right? But if your lot was big enough, you could put a 50 foot tower that supported a utility. Thus, that is what happened in Haiku where they put 199 foot tower in support of a utility which was a cell phone company. So I'm saying is that there has been discussion. At least at the Moloka`i Commission, the issue of regulating the tower height, the way we've done it, right, is there was no height limitation basically. And we said that it had to be set back. In our case, we were setting it at 50 feet. They were concerned, some members on the Commission, said there shouldn't be any height restrictions as long as we met the setbacks and if you did a windmill. Because they didn't want to discourage the windmills from coming in.

I'm just going to relay what happened on Moloka`i – that somebody who has an interim district. So how does it apply to Lana`i? You have some areas that may be Interim and was on your Community Plan Open Space – I guess they couldn't do it there – up in the rural district. So you have a lot of rural areas that are State Rural. They could come in and it maybe County Interim, and they come in for a Special Use Permit in County Interim, and they want to do a windmill. So maybe even though the Special Use Permit, you could do a 99 foot tower or whatever is granted, but your Interim District is restricted to 50 feet. I'm just trying to think how does it apply to Lana`i?

Ms. Zigmond: Does it always fall back to the most restrictive?

Mr. Alueta: Yes.

Ms. de Jetley: Madame Chair I have a question. I think this is just for instance. I have a house on a 6,000 square foot lot. So my house can be 30 feet height, right, according to this? But for instance I'm a very religious person and I want to put a big tower on top of my house, with a cross on it. Where does that stop me from doing that?

Mr. Alueta: You would have to meet the setback standards. Under this provision, you would have to meet the setback standards.

Ms. de Jetley: So would my cross be considered a tower or would it be structure or what would it be?

Mr. Alueta: I think this would come down to when you come in for building permits. If your structure was – if your tower was not attached to the structure and you didn't get a building permit, then – and it was free standing – it would be called a tower. I think once you attach

it to your building it becomes part of the building.

Ms. de Jetley: So I'd be limited back to 30 feet.

Mr. Alueta: That's correct.

Mr. Rabaino: Madame Chair. My question to you – I'm looking over here, it says development standards on page #2 – 6,000 square foot. What about the current existing homes that are here like Lalakoa I, II, or III and the old parts of town? Some of them don't even meet the 6,000. Mines is 5,000. And let's say, I want to get into wind energy just to generate some electricity for my house. I'm not going to put a tower right on my roof, and put that wind energy there. Would that be applied or it would be grand-fathered for all these old building? Because we're looking at – is this referring to future development – to set a standard for future development? What about the existing communities?

Mr. Alueta: Again, it all depends in your existing communities. In Lana`i, it may already have an existing – it may be you're already zoned R1. If it's not, then it's interim, then it would fall into this category and you would become existing non-conforming uses. So you could not expand that non-conforming use.

Ms. Zigmond: Gerry, it's in – and I don't know. Is this right? It says on page #2 – permitted property use – no land or building shall be used, and no building shall be erected or structurally altered. So would that cover what he's saying?

Mr. Rabaino: . . . (Inaudible. Did not speak a the microphone.) . . .

Mr. Alueta: Right. You could meet the height requirements. Mostly you have a single-story building, so you probably wouldn't exceed the 30 feet.

Ms. Kaye: Would this be a good time to come over and look at the map? Take a little break and look at the map and try and apply what you said? Sorry.

Ms. Zigmond: I have two things that are kind of quick. On Exhibit #1, the second page of it, #3, for the different types of uses – hospitals and or sanitariums except those for contagious, mental, or drug or liquor addict cases. So one of my hats is substance abuse counselor, so I could not operate a substance abuse facility?

Ms. Kaye: Bev, I believe Exhibit #1 is what's going to be repealed.

Mr. Alueta: Yes.

Ms. Kaye: And sanitarium language does not appear in Exhibit #2, which is what –

Ms. Zigmond: Well, it's not sanitarium. It's the drug or liquor.

Ms. Kaye: Yeah, I think that language is out.

Mr. Alueta: Right.

Ms. Zigmond: Okay.

Mr. Alueta: If you look at Exhibit #1, right, that is existing Interim District. And for the most part if you look at it, again, this is my classic example of word math problems – Train A leaves Chicago headed east, in a head wind of 42 miles an hour, traveling at 50 miles an hour, and train leaves west – one of those – that's how this Ordinance is written. That's how most of the Ordinances in Maui County are written and it drives me nuts. And it drives most people nuts because you read it over and over trying to figure out what are they trying to say. And so for the most part, I try to put it into a table format. So I tried my best to try to duplicate exactly what was over and I made some minor revisions to them. One of them was we discuss it and do we want to limit that? So we eliminated certain things – those restrictions as we talked about.

Another one we did was we added, again, the most important thing we added was height restrictions and setbacks. So you can flip back and forth if you want between Exhibit #1 and Exhibit #2, but Exhibit #2 is the Bill you're working on. That is what we are proposing here tonight.

Ms. Zigmond: Okay, how about then – I see, I see, I see – sorry I really see that now. Day care nurseries – can we take out nurseries and put facilities to include the Kupunas as well as the Keiki – on #3?

Ms. Kaye: Actually Joe, I had that marked too. We went through a similar discussion about a year ago on one of the Bill you brought before us.

Mr. Alueta: Correct.

Ms. Kaye: And we wanted to not limit it children's daycare, but include senior care as well.

Mr. Alueta: Correct.

Mr. Alueta: We can make that comment and hopefully corrections too. That was on –

Ms. Kaye: We'll incorporate it into probably a motion along with any other suggestions.

Mr. Alueta: Okay, I'll keep that in the back of my mind.

Ms. de Jetley: Okay, what I want to know is that's the 2006 map – this is the map that we're working off now? So all of that blue and red along the coast line, is that all now conservation, or it's zoned open space with conservation pockets? Is that correct now? These are all conservation pockets?

Mr. Alueta: That is correct.

Ms. de Jetley: And all of this open space?

Mr. Alueta: That is correct. Yeah, this is the State Land Use map taken off State Department of Land and Natural Resources' website. So this is what they are designating as your agriculture. The darker green is your conservation areas. And again what I found very interesting is that you have quite a bit of rural all along your coast line with pockets of conservation. And then you have some urban along the coast line, which on your Community Plan map, is open space. So it's interesting, but that's what it is. Remember, in the world of computer GIS, Geographic Information Systems, not everybody is using the same standards as far as – and layouts. In most of these, if you see where it's off set, we've tried our best to underlie the parcel data. So that's where you see the parcels here. And they don't necessarily line up. Some of this – if they really need to be shifted – so where it says conservation, and you see these little square parcels, most likely it's suppose to be there. Same thing with this, there's probably some kind of historic site that has a parcel out of it. Same thing with here, it probably shifts up.

Mr. Rabaino: . . . (Inaudible. Did not speak into a microphone.) . . .

Mr. Alueta: On the record.

Mr. Rabaino: I have a question for you. Looking at this map, you have 39. I have an old map in my foot locker. You have 39 individual lots here that is probably owned by outside past Lana`i residents. Now with this new map, is it incorporated in here under the Community Plan because you've got 39 lots over there that is privately owned.

Ms. Kaye: Gerry, are you talking about the kuleana along the coast line?

Mr. Rabaino: Yes.

Ms. Kaye: Okay.

Mr. Rabaino: That we can relate to – I can relate to. But when you guys do an update like this, you guys got to indicate from ship wreck, Keomoku Town, Lopa – you got to break this down. This is too blind sided. We're looking at this, and we're going okay you're not indicating all these spots. Even though the color says what it indicates – conservation –

this is conservation, is this part of conservation? It looks very similar.

Mr. Alueta: Yeah it is.

Mr. Rabaino: Yeah, but the thing is you need to incorporate that 39 individual lots.

Mr. Alueta: And that's something that you can discuss when you guys do your Community Plan update. This is what your – this is just a representation, a computer representation of what's on your little paper map there shows, and so this is a reproduction of that.

Ms. Kaye: If you look at the – it appears, Gerry, that conservation pockets maps the conservation pockets in green. It's just a different coloration.

Mr. Alueta: Yes.

Ms. Kaye: My question is – interim – you said you have a lot more interim than we suspected.

Mr. Alueta: Because again the way – well we know and we don't know in the sense that when interim was adopted, all they did was write an ordinance that says that from here on out, all lands that are not specifically zoned are interim, and no one created a map. And the same thing with our agricultural comprehensive zoning. All they said was if you're community plan ag, you're ag. So the only map we had to work from was the Community Plan maps as a zoning map that did the comprehensive zoning. Same thing with rural. When they said they were rural, no one ever created a map. I don't know why, but that's what happened. No one ever created a map when the Council adopted the ordinance. All they did was adopt a text ordinance that re-zoned a lot of lands making reference to other maps. And therefore, one of the biggest projects that we have at the County, at the Planning Department, is what we call the dead sea scroll replacement project. But it's to get zoning, to put zoning on digitalized zoning so we can reproduce a map like this that will show you the zoning. Now we can do that for a lot of the urban core areas of Maui County. We can't do that for some of the rural outlining areas. For interim, it's even more difficult because again all it said was if you're not this, you're automatically interim. So we have to first eliminate what you aren't and then determine. And so the best way we can determine that is we know that during the comprehensive zoning of ag, if you were community plan ag you were automatically ag. No problem. But if you're a State – if you are open space, you're underneath that – all this open space – since you weren't comprehensively zoned all of this is still interim. So all of this is technically – all of this open space here is interim. That's what I'm saying.

Ms. Kaye: We tried royally, if I recall, after much of discussion to try to get this done – to get the open zoning put in place in the Community Plan. The Planning Department said

no, not until you re-do your Community Plan. You didn't want to have anything to do with it. So let me just go back to last month, we had this discussion only because we didn't have the map. And you said and I recall in the minutes, "oh I don't think we have much in interim."

Mr. Alueta: You don't have much Urban Interim, if at all.

Ms. Kaye: Okay. So I expected when you came back this month there would be map that would show whatever you want us to adopt as interim development standards would apply where?

Mr. Alueta: And again, they apply, but again, the most restrictive development standards which in most cases are your State designation, right, is going to apply. And the County –

Ms. Kaye: It would trump it is what you're saying.

Mr. Alueta: The State development standards would trump the County's interim district as far as development standards. But you also got to understand that I did not, in the case of where you have urban, right, this is going to be your problem area because these are urban interim with a community plan open space. Now you get it.

Ms. Kaye: . . . (Inaudible. Changed cassette tapes.) . . . interim urban zoning.

Mr. Alueta: Yes.

Ms. de Jetley: But the Community Plan that means nothing for all of the work that people on Lana`i have put into this damn plan. It means absolutely nothing because the State plan which is already two years old, and by the time it's done –

Mr. Alueta: Two years.

Ms. de Jetley: Well 2006, and it's 2008, right?

Mr. Alueta: This was done in 1970's. This is just from their newest –

Ms. de Jetley: From their newest update.

Mr. Alueta: Yes.

Ms. de Jetley: So this map is what we're stuck with. Is there any way we can change all this?



Mr. Alueta: Again, the most – the protection that you’re going to get is going to be when you either do a comprehensive zoning that designates all of this open space. Now the biggest question is OS1 or OS2? Because we do have an open space district in the Title 19. You’re going to need to come up with a comprehensive zoning and you’re going to do a Bill. It’s going to a Bill similar to what is –.

Ms. Kaye: . . . (Inaudible. Did not speak into a microphone.) . . .

Mr. Alueta: Right, you’re going to have to do a Bill that says all of the open space designated on the Community Plan is OS1 or OS2. But I think one of the things that you’re going to have to come up with in your newest updated Community Plan is what lands of this open space do you want as OS1 and OS2. Because remember OS1 and OS2 – OS1 allows for some development, if you look at it. OS2 is basically no impervious services. So that’s where you’re going to have to come up with.

Ms. Kaye: Okay. One last question from me while we’re standing in front of the map. This is Community Plan and I assume it does pretty much has some teeth to it. This is interim that was done back in the 1970's, and whoever owns this doesn't want open space, what do you do with that conflict?

Mr. Alueta: You’re going to have to deal with that conflict. And the Council is going to have to deal with the conflict when you come in for you change in zoning. And you’re going to have to deal with whether or not you established some type of a taking.

Ms. Kaye: . . . (Inaudible. Did not speak into a microphone.) . . .

Mr. Alueta: And that is part of the Community Plan process but also at the zoning area. Now, the only time we get – there’s only been one or two cases of someone actually zoning something open space, going through an OS1/OS2, and that is Waiehu. They had open space and they had ag. And they were doing an ag subdivision. For them to do a subdivision, right, they would have to do the zoning change. That is consistent with the Community Plan.

Ms. Kaye: I wanted to ask that question – reverse it – let’s assume this is my property. I know the Community Plan has it as open space and I know that this is interim and I just want to use it with an urban.

Mr. Alueta: Chances are you might get a one single-family home without subdividing. As soon as you try to subdivide that’s when you’re going to get – that is when you are going to most likely get caught at the point of things. But again, if it’s in the SMA we can’t grant you an SMA permit unless you have consistency between the County zoning, State designation and the Community Plan designation.

Mr. Rabaino: I'm just going to throw this out there. Because that, you said this going to supercede that. Because this is only a draft right now that you're speaking of, right?

Mr. Alueta: No. That's your Community Plan.

Mr. Rabaino: Our Community Plan?

Mr. Alueta: That's your existing Community Plan map.

Mr. Rabaino: Because it says a draft product.

Mr. Alueta: We did it because it's a digital one based on your data book.

Mr. Rabaino: Okay, I need clarification of what you just said now. If that area that she pointed under urban, and I'm looking at this, when you said OS1 and OS2 – the OS1 is the one that you're referring that she wants to build a house on the OS1 versus the OS2 which the open space.

Mr. Alueta: Chances are that she could – if someone came in and said I want to come in for zoning change to OS1 which may allow limited structures – chances are that would be consistent with the Community Plan as well as your State designation as well as your County Zoning designation.

Ms. Zigmond: But the open space is not designated as OS1 or OS2 right? Or is it?

Mr. Alueta: It's not.

Ms. Zigmond: It's not.

Mr. Alueta: Right. So if somebody came in and said I want to re-zone myself to OS1 – whatever is allowed for a house, chances are that would have to come through this Commission and you would then struggle with that deliberation as to whether or not it meets the intent of your Community Plan, or whether that development is appropriate.

Ms. Zigmond: And who else do it go through?

Mr. Alueta: County Council. But again, I want to reiterate is that all of these problems or concerns that you have exists today regardless of what you do with this Bill. This Bill does not make it worse. It helps control what the development standards would be. So it does no harm in that sense. It doesn't change the fact that there is an urban designation. It doesn't change the fact that you have the Community Plan as open space and there's an inconsistency. And it doesn't change the fact that if someone came in for a zoning

confirmation, we would tell them that is County Interim. And that their development standards, if they came in today, would be as found on Exhibit #1. All we're doing today or what the County is proposing is to create a simpler form to read the Interim District and to establish some type of development standards with regards to the setbacks and heights.

Ms. Kaye: Okay Commissioners. I have one more thing for you Joe, if we're going to change 19.15.020 to be day care facilities then I think you need to also revise 19.04.040 definitions because in there it only talks about day care nurseries so it would be consistent.

Mr. Alueta: Okay.

Ms. Kaye: Just note that new commissioner Letty Castillo has come. Letty you're over here on this side.

Mr. Alueta: Chair Kaye can you make by line reference – page and line – on the changes. I tried to put – it says on the side lines.

Ms. Kaye: I didn't bring my entire Code with me. Okay.

Ms. Zigmond: It's on page 553 of what I have which is Title 19, and it says the second column about three-quarters down, day care nursery means premises where young children are cared for during the day with or without compensation – child care home, day care center – so that would have to be changed to include Kupuna somehow.

Mr. Alueta: Okay, if we just say day care facility.

Ms. Zigmond: Yeah.

Mr. Alueta: Okay, then that would cover it.

Ms. Kaye: Yeah, I was just going to point out that it needed to be consistent if we're going to take it out of 020, we needed to also change it in the definition section.

Mr. Alueta: Okay. It may not need to be changed – maybe just add day care facility. But I know what your intention is, it's you don't want to limit day care to nursery. Like I said, what page on Exhibit #2 – what page and line number is it that there's a day care reference? That's what I was trying to get.

Ms. Kaye: I'm sorry. Page #3, under #3 – hospitals and/or sanitariums, day care nursery.

Mr. Alueta: Okay. So we'll just cross out nursery and say facilities.

Ms. Kaye: Right. And we actually did that when you brought Ordinance 3417, Bill 68, before us.

Mr. Alueta: Yes. Okay, I'll try to follow that one.

Ms. Kaye: Okay.

Mr. Alueta: I believe Corporation Counsel had another change. You did get that.

Mr. Michael Hopper: . . . (Inaudible. Did not speak into a microphone) . . .

Mr. Alueta: Okay. Did you have a preference? Our preference was to basically, as far as tower structures, to limit it to only utilities.

Ms. Kaye: Again, just to confirm. The development standards of section #1 and #2, there's no issue about towers. The development standards for #3 and #4 – #4 is fine. I'm still not clear on whether it's better to take the tower structure box out of #3 or put the tower structures in support of a utility from #4 into the verbage of #3.

Mr. Alueta: I see what you're saying. I think that maybe, you know, in the hospitals or if you did it as a tower structure in support of a utility – expand that in support of a utility or as a grid tied facility.

Ms. Kaye: You would put that language under #3?

Mr. Alueta: To be cleaner you can probably just put it under one of these, either or. To make it cleaner, it probably should strike it from one category because it's still a use.

Ms. Kaye: It just seems cleaner to me that #4 leaves very little ambiguity. Anything that is not a tower structure in support of a utility is going to need a use variance or is going to need a variance of some kind if the height is over 50 feet.

Mr. Hopper: Michael Hopper, Deputy Corporation Counsel. So Joe, you've got the public utility uses as a use listed in #3. And #4 is tower structures in support of a utility, but you don't have public utility uses listed in #4 as a use. If the intention to have public utility uses and tower structures in support of a utility – shouldn't those both be in one of the same sections along with this tower structure?

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

Mr. Hopper: Because you would have to have the use in addition to – like just putting tower structures in support of a utility wouldn't make much sense unless public utility uses was

– it seems to be like it should go together at some point right? Because you need to allow the public utility use to have a structure in support of that utility, right?

Mr. Alueta: Well, I think that public utility uses means could be like a substation or anything like that. And so I guess, I guess the intent, the original intent was to have towers be allowed in either one of these that supported either one of these public utility facilities. And I guess they wanted it again as a telephone pole or some other tower structure. I think the intent that we're trying to get today is to allow for tower structures that supports some type of utility regardless of whether there's a public utility facility there, like a building. It could be freestanding.

Mr. Rabaino: Madame Chair, I have a question. You're going back and forth with public utilities and support utilities. We need clarification. I think your clarification would be spelling out the difference between a tower which is a sub-tower, versus a cellular tower, versus a utility tower which means telephone, water, sewage, et cetera.

Mr. Alueta: Good point.

Mr. Rabaino: If we clarify and spell it out here, it would be a better definition in clarity to whoever picks up this piece of paper and say, okay I got it. This is too vague. The word tower, I'm just looking at a structure. It could be any kind of tower. It could be high powered tower for Maui Electric. It could be high powered tower for cellular, just to get signals to have cellular phones to get connected. Especially since we don't have a tower down Kaunapali to have our cell phones to pick up. So the whole catch here and simplicity is what is a tower? Spell it out to us in plain English because you're trying to mix public utility. We all understand what is public utility. That's the infrastructure when you build a subdivision or a mall. The basic needs of a public utility – sewage, water, electricity, telephone lines, maybe cable.

Mr. Hopper: So yeah, you have the existing Code now which says tower. If that's too vague for you, then certainly I would recommend coming up with a definition that you're comfortable with. So I think you should do that as a body and determine what type of uses? If you like it just as far as a public utility – a tower in support of public utility. If you would like other sorts of towers to be permitted – that's obviously the point of this exercise and I think Joe basically took what was in the existing Code which just says "tower" and is arguably vague, and put it into this new Code. The intention being, as he has said, to adopt the standards mainly in the other sections. Certainly if there are ambiguities or other problems that you see with the Ordinance, now would be the time to iron those out and get a clearer Ordinance so everybody can understand.

Mr. Rabaino: I just wanted to let you know where I'm coming from for the record. When I'm at home on my laptop. When I go YFI, I pick up all the Road Runner. Then when I go on

my AT&T broadband, everything is blocked out. So I'm saying here, you're going to put something and your neighbor is going to have a high powered tower next to you and you're watching cable and then everything gets scrambled on frequency. So I think it's better to spell it out in each area of development.

Ms. Kaye: I think the simplest solution would be to take the language from #4, any tower structure in support of a utility and then you drop down the development standards would apply to it.

Mr. Alueta: Yeah, and I think the confusion is that tower structure, the block that the tower structure shall be set back, that is sort of redundant because I think that – unless you're saying that there is – I think the reason it was originally put in there is because it was anticipated that public utility would have some type of tower structure. And again, the tower structure could be a water tank, a water tower, so it could be almost anything. And I think the point that we're trying to get in having the tower structure is that what do you want to limit them to? Do you want to limit them only to public utility regardless? So a private citizen couldn't put up a tower structure, but a public utility could, and this would be the development standards. Now remember, this is not like the existing other sections of Title 19 that you're familiar with, like R1 or R2. This is one district. The way they did the Interim District was because the Interim District allows a variety of mixed uses, they broke up the development standards specific to that use. And that's what's kind of confusing – one of the confusing things about the Interim District. And so what they tried to do, because it allowed for a basket of uses, they tried to then say okay if you're doing a single-family home, this is your development standards. If you're doing a hospital this is your development standards. And I think all we need to do is have – if you're doing a public utility tower, this is your development standards for that period. And it doesn't need to repeat in each one, it's just that's the use.

Ms. Kaye: Okay, Alberta and then Bev.

Ms. de Jetley: I have something that we may be able to use for that. How about wording it a freestanding structure or any structure protruding above the roof line of the building shall be setback from the property line at the distance at least equal to the structure's overall height. So if you're on a 20,000 square foot lot, and you wanted to put up any type of protrusion above your roof line, you would have to set it up so that you would be – like you have a 30 foot building and you're going to put a 10 foot tower or whatever, pyramid or whatever you wanted on top of your roof – tank, whatever it be – you would then have to set it back 40 feet from the front side and the rear. So it wouldn't matter what was sitting on your roof or what kind of freestanding structure you were putting up, you would have to put it back equal to the overall height of structure. So you could put up a cross, but you could only put up a cross if you had the proper setback. Or you could put up a pyramid, or you could put up a pair of golden arches or whatever you wanted on your roof as long

as you had the setback.

Ms. Alueta: I think Alberta's talking about like any protrusion above your roof line that exceeds or protrudes beyond your roof line would be subject to the same tower height restrictions. So that's what she's getting at. So say you wanted to put –

Ms. de Jetley: So it could be freestanding or attached? So if it were a utility tower it would be a freestanding tower? If you had a, say, a windmill on top of your roof, you could do a windmill, but you would have to meet the setback requirements. Anything above your 30 foot height – your roof line.

Mr. Alueta: No, but that would be height and that's already allowed by this standard. So if you wanted to do a tower structure in support of a utility – and that's where I brought up the question of if you wanted to include a tower structures to include grid tied facilities so that it will allow people to put up a windmill, but that windmill would be subject to the same height or setback requirement as the tower. So if you put up a 50 foot windmill, you would have to be setback one foot for every foot of structure. I'm saying you can put a windmill next to a house. You can build a house in the Interim District and you can build a windmill tower that runs your house in the Interim District. And that would be allowed, if you determined that that tower was a public utility or if you allowed for grid tied towers. So I'm saying is that's one of the things about the Interim Districts is that it allows for a mixture or variety of uses. So you can have on one parcel – if you had a 20,000 square foot parcel, you could have a hospital and you could have a single-family home on that same parcel because they're both allowed as long as you met the development standards.

Ms. Kaye: I think we understand that and I think we understand the difference between the areas. Michael, do you have a suggestion on how to re-word this language to get us out of this?

Mr. Hopper: Joe, first of all, this tower structure in support of a utility, I didn't see that in the old Interim Bill. Was that tower structure in support of a utility mentioned in the old Bill?

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

Mr. Hopper: Okay, that clarifies things because public utility uses is a permitted use in the old Interim Bill. That's being moved to this Bill. So that's one key – that public utility uses, you can choose to retain them or not. That is one use that's permitted in interim, and that's listed in Section #3 as a public utility use, and it's regulated with these building heights, the square feet and things like that. This tower structure in support of a utility – I don't know if it was inadvertent – this whole tower structure shall be set back. I think the intention as we've been discussing is in the end of Section #4, tower structures in support of a utility needs to be combined with this public utility uses in some form. The only difference

between the tower in #4 and putting it in #3 is that you've got this maximum building/tower height of 50 feet. What you could do is place, and strike "tower structures in support of a utility" from #4, and put that in the end of #3. And so that would read "and public utility uses, and tower structures in support of a public utility." I believe that is the intention. And then maximum building height 30 feet, maximum tower height 50 feet, and this tower structure shall be setback. Or you could – that's essentially applying a maximum height to it – strike "tower height" from this bottom and then it would be consolidated if the intention is –. The only tower that would be allowed, then, would be a tower in support of a public utility – if that's the intention. Because I guess in the old Bill you didn't even have this sort of tower issue. And I think it probably came up, as public utility uses were started in this area, people figured they could have towers in support of this use and without a height restriction, they ran into problems.

Ms. Kaye: Okay, let's see if we all are on the same the page. We're going to put – you're suggesting we add "and tower structures in support of a utility" at the end of #3. And the block of tower, add in "tower structures shall be setback" remains. And then under #4, you would take tower height out. You leave building height in because 50 can apply to a building, right, but not necessarily a tower? And then the same setback that Alberta was going for would apply in either area, correct?

Mr. Hopper: Yeah, keep that phrase in #3, tower structures shall be setback from the property line at a distance that is equal to the tower's overall height. And again the only tower you would have – this would narrow the definition so hopefully that would be clear – is one that is in support of public utility.

Mr. Alueta: No, I'm thinking maybe the easiest way, again, is to strike the public utility uses from #3, right, and move it down to #4, to public utility uses and tower structures in support of the utility.

Ms. Kaye: You're suggesting #3 and #4 are mirror images of each other – the verbiage?

Mr. Alueta: Yes.

Ms. Kaye: Okay.

Mr. Alueta: And then – right – I see what you're saying. Thank you. I'll agree with my Corporation Counsel on this.

Mr. Hopper: My concern was I thought about that and public utility uses is listed in #3. We've got to remember there's also development standards for the public utility uses – 20,000 square feet, 100 foot lot with 30 feet maximum building height aside from the tower. So I thought about moving that down first then I saw once you take public utilities out of #3



and into #4, then you would change those development standards. In fact, you would have no minimum lot area and no minimum lot width and that's different with a public utility versus a park playground.

Mr. Stanley Ruidas: Joe, didn't last month we talked about 35 feet as what Moloka`i did?

Mr. Alueta: Moloka`i did was, yeah, they maxed it out to 35.

Mr. Ruidas: So if your building structure is 30 feet, so you can go five feet as a variation.

Mr. Alueta: Right. And I think the way they did it was 35 for the building and 50 for the tower because in reading –. If you look at #4, it says construction, new or expansion of existing parks, playgrounds, community centers owned and operated by either private or government agencies, and then tower structures. The reason they did no minimum lot area and no minimum width was because you had your certain setbacks. And because for most parks, it was going to be like a playground. So they didn't want to necessarily have any – there wasn't a minimum lot width for a playground – I'm sorry – a minimum area for an expansion of a playground or to create a new playground. They didn't want to have a minimum lot size for a private or government agency building. And for tower structures that were in support of a facility, they didn't want to have a – they felt that as long as you put up a 20 foot tower – as long as you met the setbacks that was going to be the minimum lot size that you needed.

And so I think that they didn't want to have to say it, so if you wanted to put up one pole that was in support of a public utility, you didn't have to create this minimum lot size of 20,000 square feet. And in going over it, that's the reason that they were parsed out this way is that they said if you're doing one of these, a public utility use, you need to have a minimum lot size of 20,000 square feet. And if you do a tower with that public utility, most likely you're going to do a tower with that public utility, you're going to have to have these setbacks and that's why they created that tower structure because a public utility may have a tower structure. But, if you are going to be a stand alone, if you're just going to do a tower on its own that was in support of a public utility, they didn't want to have you create a minimum lot size. And so they felt the only thing that needed to be concerned with within a tower was having the setback of that tower. And I think that's what they wanted to make clear or at least in drafting this Bill over and over with a variety of key stakeholders that I've gone through, is that that was the thinking is that – there's a utility, but does that mean that tower structure can only be done if there is some type of public utility. And if you do a stand alone tower, say a windmill, do I have to have a 20,000 square feet? And that's why on these uses, #4, there is no minimum lot area or lot width. So in that sense, I can see why we ended up putting up the two different development standards on both sections.

Mr. Hopper: I would say if you wanted to allow windmill and others, because of the tower

definition issue, I'd recommend if you wanted out windmills or other type of things in the interim that you basically list them as a use. Say in #4 for example, windmills can be a use if you want it, but I'm not suggesting that you do that. That's just an update on what Moloka`i did. Moloka`i also, I think, they went from 50 to 35 feet because they didn't want community centers which would really be the only building in this area that would be 50 feet in height. Now you've gotten rid of the tower thing. That 35 feet, they were also concerned about community center's height.

Mr. Alueta: Yeah. That's what I'm saying is that in reality, on #4, they wanted maximum building tower height, they made it 35 for buildings, 50 for towers. That was their concern on that. And the same thing for #3, they did 30 feet maximum height, and they put 50 feet for the tower. So what they said was if you had a public utility and you did a tower, that public utility building itself could be 30 feet. But if you build a tower with that utility, the tower was limited to 50 feet. So my final answer tonight is that the way I have it written is the way it was intended to be written and I'm not recommending any changes at this point to it beyond the daycare facilities.

Ms. Kaye: Anybody want to add to that?

Mr. Dwight Gamulo: Yeah.

Ms. Kaye: Go ahead Dwight.

Mr. Gamulo: Yes, I just want to ask a question. Maybe it's in a definition somewhere, but what is the tower? Is there any restriction on the dimensions of the tower other than the height based on the setback? I'm not talking about the other dimensions. I'm talking about width and length – like a footprint. There's no restrictions? You can make it any shape size that you wanted to do?

Mr. Alueta: Correct. As long as they called it a tower. As long as they didn't meet the habitable structure provision. Meaning if you built a tower and it was so big that they would say well that's a habitable structure therefore that's a building and no longer a tower.

Mr. Gamulo: Okay.

Mr. Alueta: Do you see what I'm saying?

Mr. Gamulo: Yeah. But say you have enough room you can make it 100 feet long and two feet wide and as long it fits in the setback, and then you put an antenna on top.

Mr. Alueta: Yeah.

Ms. Kaye: One really quick question on Section 19.04.040, page #6, you have commercial agriculture means selling and trading of agricultural products. How did you arrive at that \$2,500 or more?

Mr. Alueta: That was a number we came up with our TVR discussions. And when the Farm Bureau came they said what do you define a farm? And for their members, they had like \$2,500 in farm income.

Ms. Kaye: Okay, so we had a lot of discussion about the intent of these provisions they're suggesting and so far we have one concrete amendment and that is with respect to daycare facilities as oppose to nursery. We had public hearing on this last month, so at this point we can take action if the Commission is ready to for their discussion.

Ms. Zigmond: I just want to make sure I understand what we've decided on because I'm a little confused. We took out the phrase tower structures in support of a utility in #4 and put it at the end of #3. Is that what we're doing?

Mr. Alueta: No. We're going to leave it as it is.

Ms. Zigmond: We're leaving it as it is?

Mr. Alueta: Yes.

Ms. Kaye: We would have to have public testimony again?

Mr. Alueta: Yes.

Ms. Kaye: Thank you Colleen.

Ms. Zigmond: I'm just – so that means that any – to me in my head and I'm sorry if I'm not understanding this – then that means any of these other items in #3, any of these entities could have a tower structure? As it is now, a daycare nursery or a church or whatever could have a pyramid.

Mr. Alueta: Okay. So then yes. Then I guess if you wanted to be specific – tower structure in support of a utility – then that would be put into that one block.

Ms. Kaye: I'm getting the sense that that's what the Commissioners are trying to do, limit the structures to a tower in support of a utility.

Mr. Alueta: All right. That's an easy enough of an amendment.

Ms. Kaye: So we can take a break from our discussion, we'll open it up for public testimony if anyone cares to join in. Okay, public testimony is closed. Would you like us to defer this so you two can –?

Mr. Alueta: No. My only question at this point is there any desire with regards to how, like say, private windmills that are tied to the utility?

Ms. Kaye: There have been some issues on the island with people doing that. We're very small and very close to each other and I think I know I would not be in favor of going down that road tonight.

Mr. Alueta: Okay. Thank you.

Ms. Kaye: So at this point we have four choices: recommend approval of the proposed Bill, recommend approval with amendments to Council, recommend denial of the proposed Bill, or vote to defer action to get more information.

Ms. Zigmond: Madame Chair, I would like to make a motion to approve the Bill to amendment Chapter 19.02 of the Maui County Code with the two amendments that we made which is changing daycare facilities and one the development standards, #3, adding the phrase tower structures in support of a utility at the end of line #5.

Ms. de Jetley: I second the motion.

Ms. Kaye: Discussion Commissions? Questions?

Mr. Alueta: I thought it was going to be public utility uses right? That's an allowed use. And then under the development standard box, you would put tower structures in support of a utility use or you want to put it separately? You want to put it separately? Okay, never mind. I stand corrected, if that's what you want. So we'll just add to tower structure in support of a utility, after #5.

Ms. Kaye: Right after utility uses.

Mr. Alueta: Yes. Okay thank you.

Ms. Kaye: Okay, any discussions? All in favor? Oppose? We'll take a little break – five minute and come back. Okay, ten minutes.

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

**VOTED: To recommend approval of the Bill with the amendments as noted.**

**(Assenting: Commissioners D. Gamulo, B. Zigmond, A. de Jetley, S. Ruidas, G. Rabaino, L. Castillo**

**Excused: Commissioners M. Mano, D. Endrina)**

*(The Lana`i Planning Commission recessed at approximately 7:35 p.m., and reconvened at approximately 7:45 p.m.)*

**F. PUBLIC HEARING (Action to be taken after the public hearing.)**

**1. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Amending Title 19, Maui County Code, to establish a Service Business Residential District. (J. Alueta)**

- a. Public Hearing**
- b. Action**

Ms. Kaye: Okay, round two. This is a Bill for an ordinance amending Title 19, Maui County Code, to establish a service business residential district. Let me just say that Colleen, because these three items were noticed we have to take them in order. They're under some time constraints tonight to get back so we may have to push some things off until next month. But Joe.

Mr. Alueta: Thank you very much. This is again to establish some definitions for the Service Business Residential (SBR) District and to create a new district and development standards for an SBR District. The SBR District came out during the last Community Plan round. Some of the communities felt that there should be more of a commercial use with a residential type of setting. And it's kind of like another step down from the Country-Town Business District where under the same line where you allow for some type of commercial uses but where you have a transition in some of the residential areas. This is most noticeable in Hana Town, as well as, some of the areas in Wailuku. There are only two Community Plans that have SBR designation. Those are Hana and the Wailuku-Kahului Community Plan. There is no SBR designated lands on Lana`i.

Ms. Kaye: But we do have a Business – we have an SBR –.

Mr. Alueta: You have it listed.

Ms. Kaye: But we've not applied it.

Mr. Alueta: But you have no lands on that map that are designated SBR. That's just a table that lists all of the designations possible in the Community Plan. You did not, during the last round, you did not designate any parcels for potential SBR. Again, this is only to create the zoning standards and development standards for an SBR District. It does not zone any lands SBR. Okay, there's no comprehensive zoning map going along with this or plan to zone. So those properties that are located within the – if you look on Exhibit 2, Exhibit 2A and Exhibit 3, those are maps of the parcels that are designated SBR and they are primarily in Wailuku Town, some areas down in what we Paukukalo area, and then you have a lot of the areas near the urban core of Hana Town, around Hana Bay. Again, this is just to create that development standards. It's part of the implementation of the Community Plans.

Ms. Kaye: Okay, I have a few questions but I'd like to see if the other Commissioners do as well.

Mr. Rabaino: Madame Chair, can I make a suggestion? You know this thing here, can we –?

Ms. Kaye: We're not on that yet Gerry.

Mr. Rabaino: We're not on that yet?

Ms. Kaye: No.

Mr. Rabaino: Okay.

Ms. Zigmond: Madame Chair? Joe, can you explain to me what the major difference between the home business entity and an SBR would be, please?

Mr. Alueta: SBR would be an actual zoning category where you would be allowed to do certain businesses but you would keep the residential character of the area. It's very designed oriented. As well as the type of businesses that area listed as being allowed, uses tend to be more neighbor-type of businesses such as, you know, a small neighborhood store, small offices and small retail. That's why it also limits the size to a maximum of 2,000 square feet if you look at that. So, that's kind of the off shoot, and it kind of mimics what organically happened in some of our small towns where you did not have an urban core, a large urban commercial core, and it sort of just naturally sprung up, particularly in Wailuku and in Kahului where they weren't necessarily –. There's a big residential population and the houses that were along the busy thoroughfares like on Lower Waiehu Beach Road, they would come in occasionally and get variances or Special Use

Permits to do like a small take out stand or a small candy shop or quicky mart kind of deal, you know, mom and pop shops. And that's the same thing.

And in Wailuku, we have them along Market Street in the residential area, or across from the public school, where you have again, there's a beauty shop and stuff like that. And it's really been catering towards the local population in that area. But as well as, they've taken an existing house, an old house, and converted a part of it to be a commercial use. And so where they specifically had – maybe the person still lives in the back or above – but they've converted their downstairs into a retail shop or a commercial type of entity and that's pretty much where it's at.

Ms. Zigmond: Okay, so let's say someone here who has a business that is not a permitted use in the home business category that you all did last month and they wanted to live and work in the same building, they could not, as it stands now, try to get their place zoned for that because no zoning has been done for Lana`i? Is that correct?

Mr. Alueta: Well, depending on what their zoning is and what their Community Plan designation is.

Ms. Zigmond: Let's say residential.

Mr. Alueta: Then they would have to go through a Community Plan Amendment as well as a Change in Zoning. In the case of what happened here was some of the communities recognized some of these existing non-conforming uses – or existing uses I should say – not all of them are non-conforming. They're just illegal uses that they've ignored but they've tolerated and they've recognized them as a need, but they felt that they didn't want to shut them down. But at the same time, they didn't want to zone them into a commercial use. So they came up with an SBR designation in which it said we don't mind you as you stand – you have an existing home, and the way you're operating, we want to create a category that would match what our intentions are. And I think, and again, that's what happened in Hana.

Again, if you look at Hana, the SBR zoning is all along the main thoroughfare of Uakea Road and all along Hana Bay, and that's where those designations are. And again, like I said, in Wailuku and Kahului, the same thing occurred where if you had businesses either coming in for a Conditional Permit or a Special Use Permit to operate and they wanted to expand. We just kind of recognized those existing uses, but at the same time they wanted to keep that residential feel.

Ms. Kaye: . . . (Inaudible. Changed cassette tapes) . . . again, we're faced with starting our community plan.

Mr. Alueta: The reason is because you have someone who is working on doing ordinances full time, which is me. You never had that. You always had like someone doing it like a part-time job. Whereas, it's my responsibility to go through and implement one, the Community Plan, but two, to do Rule amendments when you have a Rule amendment to the Commissions as well as the Department. So I think you have a little more staff to fill that. At the same time you have a big community in Hana who's really the motivator because they have the majority of the SBR and they're doing a lot of uses that are not legal. And there's some people want to see enforcement so they feel that pressure.

Ms. Kaye: Okay, fair enough. What did Maui and Moloka`i do with this?

Mr. Alueta: You're the first to see it right now.

Ms. Kaye: We're the first. Okay, it strikes me that again we're unique because we don't have any situation that I'm aware of in town that would fall under an SBR because there's only one land owner. I don't know how this could benefit Lana`i at all. So I'm wondering if we're not in the same situation that we've been in several times in the past where we say this would benefit Maui, this would benefit Moloka`i but we don't see the value of it right now for us.

Ms. de Jetley: I have something on that one. If you look at the old Jehovah Witness Hall, the Kingdom Hall, that we are using, that is a building which would be a prime example of a residential. It's in a residential neighborhood, but it can be used – it was being used as a church – and it could possibly be used as a service business residential, SBR. It was a non-conforming use as a church because it was on Ninth Street.

Ms. Kaye: Okay.

Ms. de Jetley: So it was a non conforming use, but on a residential lot. A building like that would be a perfect SBR. If you look across to Epi Agtarap's mother's house, the yellow house on the corner there, up in the school, that is another building that would make a terrific SBR. So there are pockets of homes in this community that could be used. It would also be dependent though whether or not they would have available parking because parking is a concern. But it doesn't mean like Epi's could be turned into a business and it wouldn't be owned by Castle & Cooke. There's several on the main street through town, the side streets, that could be converted if people wanted.

Ms. Kaye: Well if you do this, then you're going to have SBRs moving further and further away from the BCT and going into residential neighborhoods.

Ms. de Jetley: Not really because there's parking requirements. There's size requirements. There parking requirements too. They would have to provide off-street parking.



Mr. Alueta: And again I want to stress that all we're doing is creating a development standard to establish these SBR so people who have an SBR designation in their Community Plan could seek for a zoning change. It doesn't mean they're going to get the zoning change, it means they have the ability to get one step towards that goal. That doesn't mean they're guaranteed it. It's just implementing what is already has been stated in the Community Plan, that they want some type of development standards. For Lana`i, again, it doesn't really apply or impact at this time. It's only if you decide to Community Plan designate lands in your Community Plan as SBR. For Moloka`i and for you guys and for up-country Maui, Country Town Business District, BCT District, seems to be the preferred method where you have a different type of character. And it's only in the few communities where there are, what you call, especially in the residential nature and character of those areas as oppose to a country town business feel. And I reiterate that in my report what's the difference between, when it integrates, mixed uses with the interim district. Because which is the primary purpose of it? And which is going to take precedence? In the SBR it's clearly single-family residences. It's one of the primary things, and businesses are seen as just an add on to it. And it set specific limitations which is 2,000 square feet, and the character that they're going for.

And again, Lana`i, at this point in time, it just doesn't impact you. The reason you're here today because this is an amendment to Title 19. Anytime I change Title 19 I have to come to all three Commissions.

Ms. Zigmond: Madame Chair, I don't see what the difference of having the old Jehovah Church made an SBR in regards to the parking issue than Sally's house.

Ms. de Jetley: Well it's suppose to be, you know, more service businesses serving the community. So like if look right across from the school, that corner house that's right a step off from the Library, right there on the corner, that could be turned into an ice cream shop or a candy store.

Ms. Zigmond: No I'm talking about the parking. You said –

Ms. de Jetley: Yeah, you need to have parking available for your customers don't you on this? So there's lot sizes that most of the lots on Lana`i would be too small for SBR because you wouldn't be able to provide the parking. Personally I think we should wait until the Community Plan update comes through and just defer this whole thing and let the Community Plan people, CPAC people, decide what they want to do with it rather than us doing it now.

Mr. Rabaino: Madame Chair, I'm aware of home business on Queen Street, Lalakoa Street, Fifth Street, and other areas that are outside of the regular town. And I'm in agreement with Commissioner de Jetley that we should defer this and let the community get involved

with the planning because if you think about it, our community, we don't have enough office space. And in my past stories with Riki Hokama and some other Council person by phone, said that people here are trying to get part-time and make their business worthwhile - landscaping, hair salon, massages, et cetera. And being that I'm exposed with the community through my work place, and I ask them in casual conversation, what you're doing this at your house? Because I want to make extra money. So I think we should defer this.

Ms. Kaye: Just for a point of clarification. Before you joined us Gerry, we reviewed the home occupation which would alleviate that – someone wanting to do an occupation out of their home as oppose to a commercial business.

Ms. Zigmond: But that's only certain businesses.

Ms. Kaye: Right.

Ms. Zigmond: Not the ones that we're talking about.

Ms. Kaye: I understand that. At this point if any of you have anything more Commissioners? We can open this up for public testimony.

Mr. Ron McOmbler: My name is Ron McOmbler. 37 year resident of Lana`i. I've been on the GPAC – last Community Plan. We have a town core, and I think you ought to leave that town core alone. Some of the businesses that have spurred up is because Castle & Cooke has canceled some leases and moved people out of their buildings. They had to go to their homes and do business. We need a better atmosphere on commercial properties here on Lana`i, and there's only one person that does that. If you start taking houses on the other side Ninth Street, on the other side of Sixth Street and start opening those up, what's going to stop the house behind that saying we'll I'm touching that property so why can't I do it? I think we ought to leave the town core alone folks, and let the community plan, if there's a need for this, let the community plan and all of us that are going to be working very hard on that, solve this problem. I don't think you need this in Lana`i City. Thank you.

Ms. Kaye: Thank you Ron. Commissioners, any questions for Ron?

Ms. de Jetley: Madame Chair, I'd like to make a motion. I move to defer.

Ms. Kaye: Well if we defer that means we have to take up again. I think what we want to do is either approve it with an amendment that excludes Lana`i at this time, or deny it – recommend denial of it.

Mr. Alueta: And again Madame Chair, you're already excluded.

Ms. Kaye: So you just want - I'm sorry – you just want recommendations to the Council tonight?

Mr. Alueta: Yes. That you're excluded because you don't have SBR. And we're not proposing any SBR on Lana`i. And we're not proposing to re-zone, even the lands that are already designed SBR, which none are designated on Lana`i. We're not even suppose to zone those properties SBR. All we're doing is creating a development standard for SBR and if those properties that are community planned want to get its zoning, they would then come in to get that zoning. And if there's a problem during the zoning process for those individual properties, the Council and the Commissions will try to establish or even restrict the uses of those SBR's zoning further than what is allowed or being proposed under the proposed SBR zoning ordinance. Because if you look at the Hana Community Plan they have further restrictions for what qualifies for an SBR zoning. So when those properties in Hana come in, they're going to have to be consistent with what that Community Plan designates it. Thank you.

Ms. de Jetley: I have a question for Joe. So where does the Bed & Breakfast and Transient Vacation Rental comes in? Is that considered an SBR?

Mr. Alueta: That is one the uses that's being proposed as a Special Use Permit. One unit would be allowed as an outright permitted use in a SBR. And anything more than that and/or country inn would be permitted with a Special Use Permit under the development standards of SBR. Or as I said, that's presuming that you have the zoning. But, again, you're going to have one community plan designation and then get the zoning and you're going to assume that didn't discount you in the last two to three years to zone something without conditions or further restrictions.

Ms. Kaye: Actually do you want to withdraw your motion to defer?

Ms. de Jetley: I need to withdraw my motion because we need all of these small transient vacation rentals that we have available on this island. They're really important to this island's economy and I'd like to see us do something to legalize those businesses.

Ms. Kaye: Joe, I have a couple of comments. First on page #3, G, "one transient vacation rental unit per lot as provided by the regions community plan." That's the first time I've seen you use that word. It's not a district. It's not an island. It's a region community plan. Does that mean something different than--?

Mr. Alueta: It should be an apostrophe s.

Ms. Kaye: What's the reason? There's Island Community Plans. There's District Community Plan.

Mr. Alueta: Because the Community Plan could be Makawao-Pukalani-Kula.

Ms. Kaye: They're considered Regional Community Plans.

Mr. Alueta: That's what I think.

Ms. Kaye: Okay. Then I would suggest on page #4 in this first – “in districts where no design guidelines” – that you put at the Director's discretion, not just his.

Mr. Alueta: What line are you one? Page #4, line?

Ms. Kaye: Line #6. Actually that was made 10 years ago by someone on Maui.

Mr. Alueta: You wanted to change what and add what?

Ms. Kaye: The Director of Planning shall review and approve at the Director's discretion. You don't want to presume it's a man.

Mr. Alueta: Yeah. Okay.

Ms. Kaye: On line #16, same page, “districts where design guidelines have been formally adopted, the review procedures contained in those guidelines shall be applied.” We don't have any. I looked and I see no review procedures. So the default would be what?

Mr. Alueta: It would read that it would be at the Director's discretion as to whether it complied with the design guidelines. If you don't have design guidelines – no, but what I'm saying if you don't have design guidelines, it's at the Director's discretion. If you have a design guideline, the normal procedure is to go to Urban Design Review Board. Most likely that's what would happen. And currently right now, I believe most of the design guidelines, the procedure is if you have more than 60% change in an elevation in the Country-Town Business District, you go to the Urban Design Review Board, and they make a recommendation to the Director, who has the final authority. So if you want, you can say that – you can be specific and say shall be reviewed by the Urban Design Review Board, with the recommendations to the Director. But I believe that most of these design guidelines right now have that saying to do it that way.

Ms. Kaye: It's just a matter – I wanted to get it on the record that maybe when we review that we would put in some review procedures.

Mr. Alueta: You did review your Lana`i Design Guidelines and –

Ms. Kaye: No review procedure that I could find.

Mr. Alueta: Okay. I'll double check that and maybe that could be one of my next project.

Ms. Kaye: And then the bottom, the boxes, the very first one, SBR Service Establishment – one parking space per 300 feet of gross floor area. If I did the math correctly that – a total of 2,000 square feet correct?

Mr. Alueta: Maximum.

Ms. Kaye: Right. So under this, if you wanted to devote 2,000 square feet to an SBR use, you would have to come up with 6.1 parking spaces?

Mr. Alueta: Yes. Round it up to seven.

Ms. Kaye: One other question about taxes. If, for example, you did have a building that became an SBR, someone lived in and worked in it, how would it be taxed?

Mr. Alueta: They would take the square footage of the commercial area and tax it at the commercial rate. That's my understanding. I'm not with the tax office, but that's how they particularly would do it. So right now, I hear the typographical correction which would be on page #4, line # 6 to be Directors. And then you wanted on the record that you had some kind of clarity with regards to how the procedure would go if there is no design review procedures with an adopted design guidelines. And I think that my default answer at this point is that it would be at the Director's discretion using the adopted design guidelines.

Mr. Hopper: Madame Chair? I just had a comment also. If there's a desire to implement this, this doesn't permit transient vacation rentals. It's inconsistent with the County Code currently, in 19.27, which states that besides from the hotel district, transient vacation rentals are prohibited. You would have to amend that Chapter to say "except as set forth in this Chapter and in referencing SBR, transient vacation rentals are prohibited." The same one that prohibits time shares units and transient vacation rentals. Just to be inconsistent with it in its current format, and it would have to amended also.

Ms. Kaye: Didn't that provision come before us, Joe, and we already specifically asked that Lana`i be exempted from the prohibitions of TVRs?

Mr. Hopper: That was law in 1981, and that's still currently valid right now. The Conditional Use Permit law came up and I believe you asked to be exempted from the elimination of Conditional Use Permits for TVRs to allow people to get Conditional Use Permits. And

19.27 has never come before the Lana`i Planning Commission, I don't believe in the last – 1991 was I think that was amended. Now the Council is currently looking at, based on all of its suggestions, that if it did allow for transient vacation rentals that it amends 19.37 to be consistent in much in the same way that this is because that Bill also permits transient vacation rentals. But there's 19.37 right now. It's existing and prohibits transient vacation rentals anywhere in Maui County unless it's in a hotel district. And there's never been an exemption to that by the Council. Except when they grant Conditional Use Permits.

In the 19.37 issue, you can obviously just have that as part of your motion. If you do adopt it, then also amend 19.37 to allow for exemption of that prohibition on TVRs which applies Countywide. Just so you're not inconsistent. And then the only other –

Ms. Kaye: Can I ask why that wasn't in this packet? Why are we just hearing about the amendment now, the 19.37? It pretty much tells us everything that has to be amended to make this work.

Mr. Hopper: It should've been in the original. So our office didn't review before it came down. Typically we only review it after it comes out of the Planning Commission, but in order to be more proactive, we thought we'd bring that up. If there's any inconsistency like that it's important to point that out. You're correct, that should have been in your report.

Mr. Alueta: That just came up and we recognized that it's going to have to be changed, not only for this one but also for the package of Transient Vacation Rental Bill. During our review, when we finally went to Corporation Counsel, they discovered that 19.37 would need to be amended to incorporate the definition areas as well as business districts. And so we felt it was more of like a technical change. To have this, then that other ordinance would need to be technically changed. But it does not change the substance of the Bill that you're reviewing. And we had some other clarifications with regards to units.

Mr. Hopper: Joe, just to bring to your attention, this is again a Bill that was drafted a very long time ago. I think it was 1997 when it was tooled. And it states in Section G, where transient vacation rentals are permitted, it states "one transient vacation rental unit per lot subject to further restrictions as provided by the region's community plan." The whole definition of what a transient vacation unit is, there's a transient vacation rental definition. So one of the recommendations if you wanted to rule out for a transient vacation rental which specifically say one transient vacation rental per lot. And if you wanted to limit bedrooms or something, you could certainly add that too. But transient vacation rental units was not a separately defined term.

In addition, that of a Special Use, subsection A, it states "transient vacation rentals up to five units on a lot." That was a bit confusing when I had first seen it. I thought the concept of it was up to five transient vacation rentals on a lot. In speaking with Joe, he believes the

intention was to allow, if somebody desired to build five separate structures, each vacation rental on one lot, again was then permitted by setback and things like that, as oppose to units. I'm not sure what a transient vacation rental unit is. If that means, for example, a bedroom in one structure or sort of an apartment type. But a transient vacation rental, those that specifies the number of bedrooms, is the use of one structure as a transient vacation rental. Let's says dwelling unit or lodging unit which is a vacation rental. I thought up to five transient vacation rentals on a lot. But again, those are basically just a suggestion to clarify the intent of your Commission as far as to what extent you would like to allow transient vacation rentals. When you would need a Special Use Permit and subsection G would be you would not need a Special Use Permit, you could simply do that use if you were designated SBR Community Plan and Zoning.

Ms. Kaye: I'm going to take you back then to page #1 or Exhibit #1 and ask why Country Inn changed from, and this line #26, "for periods of less than 180 days." The existing provision is 30. What was the reasoning on that?

Mr. Alueta: Because short term rentals are less than 180 days. And I don't really know. To my experience, the original drafting of this as well as the original drafting of the Bed & Breakfast ordinance, they were playing with the idea of this 30-day period because if you look on the mainland and a lot of other ordinances, they view short term as being 30-days. However, on Maui County, we deal with it as a 180-days. Just to be consistent, we just moved to make it 180-days. If you're renting a Country Inn – if you stay there for less than 180-days you're not a long term tenant. Because if it was a more than 180-days, then it would be an apartment.

Ms. Kaye: Okay Commissioners, questions? Okay so far we have changes to G, one transient vacation rental per lot. And on line #21, up to five transient vacation rentals on a lot. And at the Director's discretion on page #4.

Mr. Alueta: Yes, line #6.

Ms. Kaye: Right. I'm sorry, 19.37.

Mr. Hopper: Yes correct. Country Inn is defined as a transient lodging establishment. I just thought that should be transient vacation rental. I didn't understanding what a lodging establishment was and didn't see a definition for that. I think even if you did use the word lodging establishment it would basically be considered a certain type of transient vacation rental which it may have a single kitchen, but you could not have kitchens in each individual bedrooms. I think that's the main distinction between the Country Inn and the regular TVR, and that you could have, I believe, a kitchen in each bedroom.

Ms. Kaye: So you're suggesting that we change the language from changing lodging

establishment to transient vacation?

Mr. Hopper: Transient vacation rental.

Ms. Kaye: – rental?

Mr. Hopper: Yes, because I believe that a Country Inn as defined is essentially defined as a specific type of transient vacation rental. If it is allowing guests to stay for compensation for periods of less than 180-days of continuous occupations for guests, that to me is the exact same as the definition, in the Code, for a transient vacation rental. So it would be construed to be a transient vacation rental, I believe, even if lodging establishment is left in there.

Ms. Kaye: And the point of that would be what though?

Mr. Hopper: For clarity in order to say that it is a transient vacation rental.

Ms. Kaye: Well but a transient lodging establishment could be used for other than vacation purposes. I find it more accurate with the way it is. I don't know how the other Commissioners think about this, but I could see a unit that was structured this way, putting up worker who are not on vacation to actually – you know on a job for six months and living in a lodging, a transient lodging establishment. Vacation speaks to –

Mr. Hopper: You could do it either way. Transient vacation rental is defined as a single entity of transient, and transient has a definition in the Code. And so that's why using the word transient in there – again, if you want to define Country Inn as something different than a transient vacation rental or change the definition, allow it or not allow it, or allow a certain type of use, you're at your discretion to do that. But, as drafted, for me, I certainly don't think it's critical of the changes. I just suggested that it could be made vacation rentals. But if people are all right with lodging establishment, I don't think that's all with right me – serious legal problems.

Ms. Kaye: I don't have a problem with transient lodging establishment. Does anyone else? No I can't make a motion.

Mr. Dwight Gamulo: I make a motion that we approve – where is it – the amendments to Maui County Code, 19.04 and 19.06 and 19.36 as well as establish Chapter 19.11 to establish new definitions and development standards for a new service business residential district with the changes as just summarized by the Chair.

Ms. Kaye: And Corporation Counsel.



Mr. Gamulo: Yeah.

Ms. de Jetley: I second that Commissioners.

Ms. Kaye: Any discussions? Questions? All in favor? Oppose?

**It was moved by Commissioner Dwight Gamulo, seconded by Commissioners Alberta de Jetley, then unanimously**

**VOTED: To recommend approval with the changes as noted by the Chair and Corporation Counsel.**

**(Assenting: Commissioners D. Gamulo, B. Zigmond, A. de Jetley, S. Ruidas, G. Rabaino, and L. Castillo**

**Excused: Commissioners M. Mano and D. Endrina)**

Mr. Alueta: Thank you.

2. **MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Amending Chapter 19.04, Maui County Code, pertaining to General Provisions and Definitions, and Amending Chapter 19.36, Maui County Code, pertaining to Off-Street Parking and Loading. (J. Alueta)**
  - a. **Public Hearing**
  - b. **Action**

Ms. Kaye: Next up is a Bill for an Ordinance amending Chapter 19.04, Maui County Code, pertaining to General Provisions and Definitions, and amending Chapter 19.36, Maui County Code, pertaining to off-street parking and loading. Joe?

Mr. Alueta: This is basically a re-do of the one you saw previously. As you know there was an ordinance passed or a resolution done by Riki Hokama with regards to allowing for these mixed-use developments. The Department made a significant change to his proposed Ordinance, to expand that to include all areas and removing the 20,000 square foot restrictions, as well as, rather than giving a blanket reduction for mixed-use projects or developments – to help set up and to establish some type of criteria for a parking reduction and to maximize the parking reduction at 30%.

When we went to Council, that didn't happen. They basically adopted his Ordinance, or his Resolution, as presented – in essence, establishing some parking standards specifically

for these types of projects. We still think that our concept, and so does Council, agree with us with regards to the proposed amendments to 19.36. So basically what we've done is we're going to again try to come up with establish a mixed-use district and make some corrections to the existing Ordinance in the form of simplification such as putting again out a word math problem into a table format so it's easier to read. We also are using graphics to illustrate what we mean by – for landscape requirements and parking requirements – on page #10 and #11. We also incorporated the idea that the Director can allow for other surface materials as provided for in the design guidelines of the various districts. Currently, gravel, you know, in some Community Plan such as Hana, they prefer to have gravel to be used in some of the areas. We also incorporated temporary parking. Many times you have a construction project that is very large. It has like 400 construction employees. We need to establish a temporary off-site parking area in which we can then shuttle the employees to. We didn't have an ability to do that now so we created that standard with the parking ordinance again, as well as, creating a new definition of a residential mixed-use project. And this is different from Riki Hokama's residential mixed-use development.

We also created – as we talked about the last time we proposed some of our excess parking stalls to minimize the amount of paved surface area. So this is pretty much the same thing you saw last year. The one difference that I'm going to recommend you make that is not on the change is shopping centers. If you look on page # 3 on the table. And that's on Exhibit #2, of your exhibits, and you have your table of uses and we spell out how many parking stalls you need. We're going to say that in talking with our Zoning Administration, is that they want to have the definitions for shopping centers to basically be based on up to three acres of land or a minimum of 25,000 square feet, and take out the reference to five or more uses or business uses. That's the legis of the change. So basically, if someone comes in, as a large project, they want to assess it as that without the (inaudible.)

Ms. Kaye: So you're suggesting removing with five or more uses completely? Yes?

Mr. Alueta: That is the direction that the Zoning Administration wants to go. We're still discussing but that's their recommendation at this point. But they want to have the ability to assess the shopping center to be developed on more three acres and have 25,000 square feet.

Ms. Zigmond: Madame Chair? So are there waivers on these parking spaces, et cetera, like there was last time?

Mr. Alueta: Yes. It has also been retained – also for mixed use projects and industrial uses and that's on page –. That was not adopted the last time, so we are, again, re-proposing that use be granted.

Ms. Zigmond: Because last time we had requested that waivers should be granted by the Lana`i Planning Commission for Lana`i.

Mr. Alueta: Correct.

Ms. Zigmond: And I'd like to see that in there.

Mr. Alueta: I can add that back in.

Ms. Zigmond: How did it get left out?

Mr. Alueta: I don't know. I was going to bring it up. Again, we feel that the Director should do it to streamline the process. But if Lana`i wants to retain that then I can put that language back in – that for Lana`i only –.

Ms. Kaye: I went and looked it up, what we voted on last time because you made the change I recall. It would appear most properly now in 19.36.160, under A, "Chapter, except on the island of Lana`i where the Lana`i Planning Commission shall approve or disapprove a request for waiver or deferral." Then under B, you would also have to add, "in determining the potential reduction of parking, the Director, or the Lana`i Planning Commission, shall consider the following."

Mr. Alueta: Okay.

Ms. Kaye: I'm sorry, I also have questions – I made a note – how does this apply to existing use? For example churches? Because this appears, the way I read it, to remove on street parking to fulfill the lower requirement.

Mr. Alueta: Again all of this parking waivers are pretty much the same one that were in there. We just consolidated all of the various parking waivers. The existing 19.36 allows for parking waivers for churches – to count on-street parking. And so basically, what we did, we moved this to one area. So if an existing church as granted a parking waiver, unless –

Ms. Kaye: I'm sorry that's not my question. I read the former provisions to allow on-street parking to satisfy. They wouldn't have to come in for a waiver. If there were certain amounts of spaces within a certain amount of feet of the church, then they didn't have to go for a waiver. They could count those on-street parking spaces towards reduction in what was required. I don't see that language in here specifically so that's why I'm asking.

Mr. Alueta: That is correct. I believe we either remove that provision so that churches could

not use on-street parking to satisfy their parking requirement, or if you look on page #17, F, proof of parking reserves in the form of reserved open space in excess of the minimum open space or landscape requirement.

Ms. Kaye: What line are you on?

Mr. Alueta: Page #17, line #2. And the last provision it says, "commission based on evidence of overflow parking on public streets, in fire lanes, or in other areas that are not striped."

Ms. Kaye: But they will still have to come in for a waiver. That's just one of the things that would have to be considered. As it is now, they don't. And I hate to see that applied to our churches here.

Mr. Alueta: Only new churches. The existing churches would not be affected.

Ms. Kaye: This doesn't affect – it wouldn't apply? Thank you. Easy enough. I said how would this apply to existing uses? Commissioners, questions? I'll open this up to public testimony.

Ms. Zigmond: Madame Chair, I have one little mini typo. Page #17, line #27, flee markets, I think it's f, l, e, a.

Mr. Alueta: Page #17 – what now?

Ms. Zigmond: Line #27, page #17, flee – f, l, e, a.

Mr. Alueta: Okay.

Ms. Kaye: You want typos from us? I assume this would go through another iteration.

Mr. Alueta: I don't know. Do I feel like getting beat up some more tonight? Sure what the heck!

Ms. Kaye: Page #11, line #20, permitted in parking spaces - plural.

Mr. Alueta: Line #20? Parking spaces.

Ms. Kaye: Yes. And page #9 – this is not a typo. Page #9, line #33 and #34, the landscape planting plan(s) shall specify plant species, sizes, quantities and locations. Would you consider adding with consideration given to utilizing drought resistant plants?

Mr. Alueta: If that's what you want, I can put it in. We do try to consider drought as well as native plants. We do that any way, but if you want to put it in the Code, it's fine – drought tolerant, native plants.

Ms. de Jetley: Please remember, Commissioners, what happened with the connecting road between Kihei and Puunene. They had spend hundreds and thousands of dollars on plants, native plants – I mean if you guys want to spend all that type of money, maintaining native plants, fine, but I vote let us plant what grows best in the area. So we shouldn't specify native plants.

Ms. Kaye: Drought resistant is okay?

Ms. de Jetley: Drought resistant is fine.

Mr. Alueta: The way it is for consideration so it's not mandated.

Mr. Gamulo: There's other species that you can find. . . .(Inaudible) . . .

Ms. Kaye: Line #15, page #9, projects – plural.

Ms. Zigmond: Page #12, line #20, what is a paver area? Should that be paved or is that a word I don't know?

Mr. Alueta: I'm sorry, what page again?

Ms. Zigmond: Page #12, line #20.

Mr. Alueta: Line #20.

Ms. Zigmond: Is that paved?

Mr. Alueta: Yeah, paver area.

Ms. Zigmond: Okay, I don't know what that word is so that's why I'm asking – paver – I'm not familiar with that.

Mr. Alueta: You know like a stepping stone? Those pavers? It's like grass crete – grass blocks . . . (Inaudible. Changed cassette tapes.) . . .

Ms. Kaye: Okay, we asked for public testimony and we had none, so we're going to close that. And Commissioners, we have the same choices before us: recommend approval of the proposed Bill, recommend approval of the Bill with amendments as we've discussed,

recommend denial, or vote to defer.

Mr. Alueta: Do you want me to go over the amendments that you currently have?

Ms. Kaye: Yeah.

Mr. Alueta: Besides all the typographical ones, page #9, we're going to include with consideration to drought tolerant and native plants or was it no native? Keep native in there? Consideration or in consideration –

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

Mr. Alueta: Okay, we can -

Ms. Kaye: Joe, would you like us –? I'm sorry, I thought we were in agreement that it would be limited to drought tolerant without specifying the species. If that's something that we need to vote on, we can certainly do that.

Mr. Rabaino: We agreed on drought, not native. We took away native.

Mr. Gamulo: I'm saying that you can find native plants that can live in almost any kind of conditions if you look hard enough and you don't have to spend a large amount of money trying to make them survive in conditions that they're not suited to.

Ms. Kaye: If you feel that strongly about it, then I suggest you make a motion and see if you have the support for it.

Mr. Gamulo: Well you said you consider native plants any way.

Mr. Alueta: Yes. So right now, I'll leave it as with consideration to drought resistant plants and then if there is a motion, you make the initial motion. If there's any amendments, then we can have that. So with consideration to drought plants on page #9. Again, some spelling corrections or pluralization there. We were going to have a deletion on shopping centers with regards to spaces – the amount of five – so it would just be based on the square footage as well as the lot size for determining what the shopping center is. And then on page #16, line #29, we were going to put in, at the end of that, Section A, except for Lana`i, the Planning Commission shall grant the parking waiver. So we'll use the same language that we had the last time. And then on B, you're going to have the Director or the Lana`i Planning Commission shall consider the following. And correction to flea market. And that's pretty much was the amendments that was generally agreed upon.

Ms. Kaye: Okay, I'll entertain a motion.

Ms. Zigmond: I move that we approve the amendments to the Maui County Code 19.04 and 19.36 draft Bills to establish parking requirements for residential mixed-use projects, et cetera, with the amendments that were just mentioned, including the Lana`i Planning Commission's control.

Mr. Ruidas: . . .(Inaudible) . . .

Ms. Kaye: Discussion? All in favor? Oppose?

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner S. Ruidas, then unanimously**

**VOTED: To recommend approval of the proposed Bill with the amendments as noted.**

**(Assenting: Commissioners D. Gamulo, B. Zigmond, A. de Jetley, S. Ruidas, G. Rabaino, and L. Castillo**

**Excused: Commissioners M. Mano and D. Endrina)**

Mr. Alueta: Thank you.

## **G. COMMUNICATIONS**

- 1. May 7, 2008 Semi-Annual Report submitted by Jon Shimizu, AIA, Vice-President of Development of Castle & Cooke Resorts, LLC regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017:001, 002, 003, 004, 005, and 4-9-002:049, Manele, Island of Lanai. (95/SM1-015) (95/PH2-001) (Letter was distributed to the Lanai Planning Commission prior to the May 21, 2008 meeting.)**

Ms. Kaye: Colleen, excuse me, did you say 9:30 p.m.?

Ms. Suyama: . . .(Inaudible) . . .

Ms. Kaye: Okay. We can just move on to the next item on our agenda then. This is a communication. It's the first of a semi-annual report submitted by Castle & Cooke regarding the irrigation demand associated with Manele. The letter came in our packet last month, and a sufficient number of the Commissioners found it confusing enough that we deferred until this month so we would have a little more time to try and figure out what was being said. This is not an action item. We don't vote on it. This is just a first shot to try and

communicate on a subject that we discussed at great lengths last year when Castle & Cooke came for a five-year extension for this project district. So Commissioners, with that said, you had an extra few weeks to look this over. Any thoughts, comments, questions?

Ms. Zigmond: Madame Chair, I'd like to thank Castle & Cooke, first of all for providing us with the report that we asked. I have to say that even if I had another month to digest this, I don't think it would do me any good. I'm really confused. I've got several things here that I would like to talk about. I felt when I was reading it, I mean I really struggled with it. And the word that came to my mind was double speak because I know less now and I'm more confused now after digesting it for all this time. So I have a number of points that I'd like to talk about. I don't know. Do you want to start?

Ms. Kaye: I know I do. I have a few. And I don't know with the other Commissioners, but I noticed that Mr. Shimizu is here with us tonight. This is an excellent pleasure. I think maybe what you can do is just listen to what some of our questions are and then just respond. Because actually I didn't know that anyone would be here. I just thought we would get this on the record and then send a letter out saying these are our questions. So you could probably take a stab of it if that's okay with you?

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

Ms. Kaye: Okay, but I think for the sake of this group, we need to get it on the record.

Mr. Shimizu: Hi. I'm Jon Shimizu from Castle & Cooke. What I just said was that I think in the letter we did ask a written response from the Commission for clarity purpose, and we would respond to that.

Ms. Kaye: Then I think what we'll do is we'll continue with our verbal discussion so we all, maybe, understand what some of the questions are, and if anyone wants to add any, and then we'll put something in writing. This is a very helpful attempt, but Bev, please, you go first, and then I'll go.

Ms. Zigmond: Okay, I'd like to actually start with Item A then. Here we are developing other non-potable sources. The applicant has selected a potential site for new brackish water well in the vicinity of the former piggery site and has obtained a construction proposal from an appropriate contractor. It is estimated that this new well will be operational within five years. Five years is going to be the end of the extension time, and I'm curious if it's not operational then and the Company doesn't need another extension, what happens to that other potential site and what happens in the mean time?

Ms. Kaye: You want us to do this one at a time? Do you want to respond?



Mr. Shimizu: You know usually in these meetings, a lot of things go around, I think it would be better to have something that's written and then we can respond to that.

Ms. Kaye: Okay, then I'll just add to that, that in fact, Castle & Cooke has put in an application – did so last December for a new brackish well and I'm not sure why that wouldn't have been added to this because that would aided your cause to know that you've gone even further than finding a site, you've actually applied to put a well in. So that's all I had to say about that. Bev you want to –?

Ms. Zigmond: Applicant references a 1995 application for the subject SMA Phase II development in Manele and further references the County of Maui's December 1995 Staff Report estimating irrigation demand at build out to be 400,000 gallons per day (GPD.) I don't know anything about those documents and I am curious if they were reference points, why we didn't get a copy of them?

Ms. Kaye: Okay so then maybe going forward when the next report is due, we'll ask that those documents be attached so we know what you're referring to.

Ms. Zigmond: Okay and moving on, applicant defines build out as 166 single-family lot and 54 multi-family units for a total 220, and indicates that 52 single-family and 53 multi-family units constituting 47.7% of the total as to date has been built within the project district. That would be 105 of the 220. But, it's my understanding that there are only actually 15 single-family homes built and the rest are lots that use no water or are drawing no water. So if there's really only 15 single-family and 53 multi-family units that's actually 28.2% which is a lot less in gallons. And so I'm curious about what are we tracking here? I mean, first of all we were suppose to track on-going developments and tie that to irrigation. But if a lot is just a lot, it's not using any water, so why are we even including that in our total? That's some of my confusion.

Ms. Kaye: And actually I wondered the same thing myself. So I went digging for some of the paperwork that Castle & Cooke has given us in the past. And it's been very, very helpful and I will share with you that this is a big concern of Chair Gima before he left this Commission that we just never got a clear picture. And, this, I'm showing now what was given to us at a prior meeting that shows all the lots and you can easily see what is just a lot and what actually got a lot and house on it. So going forward, this kind of accompaniment to the report would be most helpful. Gerry? Alberta? Stan?

Okay, I had a question about the fact that the Palms were added in because that was entitled separately. It's not required to be reported on as part of this, condition #14, for the Phase II. And I'm wondering if it's just because you couldn't separate out the water that's going to the Palms and the water that's going to the single-family/multi-family? I do know that there are only 14 of the Palms built, and prior graphs that I've seen from Ralph

[Ralph Masuda of Castle & Cooke] show a potential of almost 47. So that's not a significant step towards full build out either. So I think it would be really helpful to have a little more clarity on if you want to include the Palms in this reporting, that's great. But having an accurate count of how many of them are actually using water as opposed to how many of them are simply graded would be helpful. And differentiation between what's going to Palms and what's going to the other two. Otherwise, that's not part of this reporting requirement.

Okay, and then I did some math because on the reliance on the 47% of the build out constitute 151,800 gallons per day. And I think, if I'm understanding Bev's point, these are mostly lots not using water so that percentage is not necessarily accurate. But if you took this, and at 151,800 gallons per day is exactly what comes off of the 2007 periodic water report. If you're using that much for 84 build units, that constitute an average of 1,807 gallons per day for each unit. And if you then would apply that to the full build out, what you say is 267 units, you'd be using 482,469 gallons per day for irrigation. And of course, this does not include the 650,000 gallons that goes to the golf course that are permitted. What we're trying to do is get a handle. The intent of this condition was to get a handle on understanding how much water is being used down there and how it's tracked with development. That's it. That was really what we wanted to know.

So, I'm confused to see because Ralph [Ralph Masuda of Castle & Cooke] would tell us at one meeting that five units had been build in like 10 years. But you're saying now that you think all remaining 115 units are going to be built out by the end of five years, and that's four years from now. Because building out means something different potentially. Building out, you're saying it means just get lots ready, but Ralph has been very clear to us that Castle & Cooke is no longer in the business of building houses. That's all they do is prepare the lot, sell the lot, and bring the utilities to the lot. And then it's going to be up to the person who buys the lot to build a house, put in the landscaping and doing all of that. So that begs the question of how did Maui County water availability bill is going to impact going forward? I think that's all I have. Any other comments?

Mr. Rabaino: Can we have a list – for the landscaping part, because of water usage – the list of regular plants that has been used versus if you've used any drought resistance plants for landscaping?

Ms. Kaye: Well we can certainly add that. I think at this point, I'll take your comments that I've heard tonight and put it in a letter form, send a draft around to the Commissioners – Corporation Counsel track me on this if this is appropriate – and then, you know, give you a couple of days to respond and then we'll just send it out to the applicant. And it will be in the spirit of this is really what we will find helpful next time.

Mr. Hopper: I would just be careful about circulating information.

Ms. Kaye: I'm sorry. I meant to send it to the Planning Department. It should go from Mr. Hunt to the applicant, correct?

Mr. Hopper: Or best, I think, best it would be to have the planner prepare the letter at a future meeting, vote on if you want the letter sent out as drafted, or to add the amendments and then send it out. You would have to sign it as Chair. I mean, if you approve now, basically what you want to be in the letter, I mean, suppose that's fine. But then you would have to rely on the Planning Department to prepare it, you to sign it, and that can happen. I generally advise Commissions to review the actual letter, have it in front of them, so you can all vote, and see what's in that letter to make sure that it's accurate.

Ms. Kaye: Okay, I would be more than willing to have a draft ready for the next meeting for review, publically, if that's what you're suggesting.

Mr. Hopper: Absolutely. I think that would be great. Or to have your planner who's working on the project prepare it as well. Either way.

Ms. Kaye: That would be Mr. Fasi? No? I'm sorry.

Mr. Hopper: Either way it's acceptable. It's just that I usually recommend voting on the specific letter that you send out that's all.

Ms. Kaye: I don't like throwing work on someone I haven't met yet, so I'd be happy to do it. And I can consult with you if that's okay and then we'll make it an agenda item for next month. And I know we're having training next month, so maybe we can make it first so we don't have to -. I'll talk to you about that after the meeting if that's okay?

It's an agenda item, but it's not an action item. I'm not clear.

Mr. Hopper: You do have to allow for public testimony.

Ms. Kaye: Okay, then let's have some public testimony. No Ron - heavens! Ron!

Mr. Hopper: Just as a note, the sunshine law, you've got to allow, on every item on the agenda, we would have to allow it.

Ms. Kaye: Okay, while we're trying to track Ron is there anyone else who would like to provide some testimony? I'm sure I'll hear about it tomorrow. Okay, I guess public testimony is closed. Anybody wants to add anything? We'll move on the agenda. Okay, Colleen.

## **H. 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. Open Lana`i Applications Report.**

Ms. Suyama: Thank you for moving things along. Anyway, under Director's Report, the only thing that we have is the last May report there was some questions on two projects. One was the Lana`i Warehouse Subdivision. This was not acted upon by our office and it appears that the Building Permit needs to go through design review. And because of the length of time that has transpired since this application was first submitted, the staff is contacting the applicant to find out whether they're still pursuing the enclosure of the warehouse building. So that's still an open application. But it's to be reviewed in accordance to the Lana`i Country Town Design Guidelines.

The other items, which is the Koele Project District Flexible Design Standards, is that we have provisions in the Code that allows flexible design standards that are not the standards that the County uses in terms of roadway standards and utility standards. And what they had asked the Department – the Public Works Department is the one that approved the flexible design standards – they asked the Planning Department to comment on those design standards. And our response back to Public Work was that we have no objections to it and it's because Koele is a Project District, they are allowed to have standards that are not the same as what we would normally require in developments within the County. And that's usually like roadway width. How you do your curbs, gutters standards as well as your sidewalk standards. And because the Project Districts are unique, each development usually comes out with its own design standards. And we just review it and we just provide comments to the Public Works Department. So I believe those were two of the projects that there were some comments on.

Ms. Zigmond: There was another one actually. I sent you two emails and I think you only go one because what prompted my questions was the land court consolidation.

Ms. Suyama: Okay, I didn't get that information from my staff. If was a consolidation, it's usually consolidation and re-subdivision of existing lot. We are only a commenting agency. That one I would have to follow up at another date, or have someone follow up.

Ms. Kaye: Colleen, what is DSA?

Ms. Suyama: DSA is Public Works. It's a section of Public Works. It's called Development Services Administration and they are the branch of the Public Works Department that issues all building permits, all ministerial permits for developments, as well as, they are responsible for all subdivision reviews.

Ms. Kaye: Gerry you had a request I think you spoke about?

Mr. Rabaino: Can you make a leger spelling out what all of these abbreviation.

Ms. Suyama: Okay, I'll have somebody do that for you.

Mr. Rabaino: Something to go into this thick folder.

Ms. Suyama: Okay. I'll have somebody do that from my staff, in the future.

Ms. Kaye: Great. Thank you.

### **3. Status on the Water workshop.**

Ms. Suyama: This takes care of the open Lana`i Project. The other thing is the status of the water workshop. And in your packet is a memorandum dated today and this has your meeting schedules all the way to the month of September. And what it is, is that July as we stated is your orientation meeting and it's going to be handled by Clayton Yoshida. And this is for especially for the new members to be present. It's an annual orientation.

August 20<sup>th</sup>, we're having your first water workshop series, and this one we will have Ellen Kraftsow from the Department of Water Supply and Roy Hardy of the Commission on Water Resource Management. They both agreed. Letters have been sent out to them confirming the date and time of that first series of water workshop.

On September 10<sup>th</sup> to the 12<sup>th</sup> is the Hawaii Congress of Planning Official Conference, which you've all been notified about. And I believe the only new people that we need to know from is from the new Planning Commission Members whether they are proposing to attend that conference. And this is a Planning Conference. It's held State wide each year. This year the Maui Planning Department is the Conference host. And for that reason we usually send all of the Maui Planning Commission members who wish to attend the conference. So I believe most of you have stated you are willing to attend.

The other thing that we're considering is because of the flights that come out of Lana`i, that you either have to take the ferry or you have to fly in through Oahu, what we're considering is that if it's acceptable to the Commission, how we charter our flights in to Lana`i that maybe if everyone is willing to travel at the same time, we can make a special charter that

would bring the Commission from Lana`i to Maui, and then back to Lana`i. We could do either do it on that Wednesday, depending on how we can make the arrangements. But one of the other things that we are considering that we're willing to do is that because we realized the travel time, either the ferry or the airlines, you wouldn't make it in time for the workshops. So what we are considering, and we're willing to accommodate the Commission, if they come in the night before, we would pay the extra night for your accommodations. So we leave it up to the Commission which way they want to go, whether they want to come in the night before or they want to come in on the special charter. Because if it's a special charter, we probably can time it to come in where it would be where you would have enough time to make the workshop.

Ms. Kaye: Would we get your pilot? The same one?

Ms. Suyama: Usually we go with Dick from Maui Air because out of all the charters, Maui Air is the cheapest.

Ms. Kaye: I know, I've communicated with Leilani once we realized there was a time problem that it was really awful, a really significant increase in expense to Maui County to have to put us all up an extra night. So if it would be cheaper to do the charter, I think we'd all consider that.

Ms. Suyama: Right, the charter would be cheaper for the Department. So I'll have Leilani check with the Commission – before that, to make the arrangements for the charter.

And the other thing is September 17<sup>th</sup>, also would be the second series of your water workshop. And for that one we have Gordon Trimble from the United States Geological Services as well as Professor James Juvik from the University of Hawaii, Hilo. And both of them have also been sent confirmation letters that they're scheduled.

After this, Joe is going to follow-up with the other people that were on the list of invitees and to schedule the rest of the workshops through the year.

Ms. Kaye: I think I sent an email asking you for a complete list of everybody because I can't find mines.

Ms. Suyama: Okay, I'll transmit that back when I get back.

Ms. Kaye: I'm sorry. Okay.

Ms. Suyama: Other than that, that's all I have to say.

#### **4. Registration for the 2008 Hawaii Congress of Planning Officials (HCPO)**

**Conference - September 10-12, 2008, Grand Wailea Hotel**

**I. NEXT REGULAR MEETING DATE: JULY 16, 2008**

**J. ADJOURNMENT**

Ms. Kaye: Okay, there being nothing else on the agenda, I'll entertain a motion for an adjournment.

Ms. de Jetley: I move to adjourn.

Ms. Kaye: Any oppose? Okay, next meeting is July 16<sup>th</sup>. Thank you all!

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 9:10 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN  
Secretary to Boards and Commissions I

**RECORD OF ATTENDANCE:**

**PRESENT:**

Sally Kaye, Chair  
Stanley Ruidas, Vice-Chair  
Dwight Gamulo  
Beverly Zigmond  
Alberta de Jetley  
Gerry Rabaino  
Leticia Castillo (from 7:00 p.m.)

**EXCUSED:**

Matthew Mano  
Darlene Endrina

**OTHERS:**

Colleen Suyama, Deputy Director  
Joseph Alueta, Administrative Planning Officer  
Danny Dias, Staff Planner  
Michael Hopper, Deputy Corporation Counsel