

**LĀNA‘I PLANNING COMMISSION
REGULAR MEETING
MAY 21, 2025**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Mr. Reynold Gima, Chair, at approximately 5:01 p.m., Wednesday, May 21, 2025, online via Webex videoconferencing platform, Meeting ID: 2661 114 3445 and Password: 052125; and at the Current Planning Conference Room, One Main Plaza, 2200 Main Street, Wailuku, Hawaii, 96793; and at the Maui County Council, Lanai District Office, 814 Fraser Avenue (entrance on Gay Street), Lanai City, Hawaii 96763.

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

Mr. Reynold Gima: All right, good afternoon everyone. I want to welcome all of you to the May 21, 2025 meeting of the Lanai Planning Commission. We have four commissioners on camera. We're waiting for the fifth. As I wait for the fifth commissioner to come on board I'll cover some housekeeping stuff. All the commissioners must be on video, and all votes will be by show of hands. And once Commissioner Manna comes on I'll ask about if anyone has, any of the commissioners have anyone in their, the room with them.

In terms of testimony, public will be able to provide testimony on all agenda items. If you choose to testify, please sign up with Leilani in the chat. Give her your name and which agenda item you wish to testify on. You will have three minutes to testify. And until you are called, please mute your audio and video. We will also be taking testimony if anyone is in the Council Member Johnson's office on Lanai, and in the planning, Planning Department's conference room in Wailuku.

Okay, let's see. I don't see Manna here yet. Okay, he's not answering. Caleb, how long can we wait before we have to cancel the meeting?

Mr. Adrian Pierce Reifsnnyder: That would be 30 minutes, Chair.

Mr. Gima: Okay. Thank you.

Mr. Caleb P. Rowe: Chair, this is Caleb. I am going to be on the line, but Adrian's going to be kind of taking the lead on this, this meeting for our office.

Mr. Gima: Oh, okay. Thank you.

Mr. Rowe: Yep.

Mr. Gima: Okay. Adrian, while we're waiting for Negus, do we need to have quorum to go over Director's Report stuff on the agenda? Since we don't take public testimony for those items?

Mr. Reifsnnyder: Yeah, that should be fine as long as there's no decision making or contemplation decision making involved.

Mr. Gima: Okay, why don't we do that then? Danny, you want to, start the Director's Report? I think the only decision issue may come down to the Planning Commission rule change proposals.

D. DIRECTOR'S REPORT

- 1. Completed Lāna'i Applications Report (*No permits were issued from the period of 04/04/25 to 05/08/25 – no report generated.*)**

Mr. Danny Dias: Yeah, thank you, Chair. Good afternoon members of the Lanai Planning Commission. Director's report, we'll start with item D.1., basically the completed Lanai applications report and for the period between April 4th and May 8th we had no permit issued for Lanai.

- 2. Transition to Microsoft Teams: Starting July 1st, Department will transition to Microsoft Teams as our videoconferencing platform, replacing Webex.**

I think we mentioned this at the last meeting, but starting July 1st the department will transition to Microsoft Teams as our video conferencing platform rather than Webex. And so basically what that is, is, you know, the, the links and so forth on the agenda will reflect that.

- 3. Transition to Dropbox for Testimonies: Effective July 1st, testimonies will be managed by using Dropbox. This platform will provide improved accessibility and organization for shared documents.**

The third item is a transition to Dropbox for testimony. This mostly has to do with the Maui Planning Commission, but it's going to be implemented for Lanai and Molokai also. Basically with the sunshine law, what we've been advised by Corp Counsel is that testimony can be submitted all the way up to decision making. And generally that's not a problem except when you have, you know, very controversial items such as, for example, the Minatoya list we had literally thousands of, of pieces of testimony that were submitted. And some of those items were coming during the meeting, while the commission was hearing testimony and also while they were doing their deliberations, and that sort of created a problem for, you know, Leilani and our other secretary, secretaries to our boards and commissions because as they're trying to pay attention to the meeting, they're also monitoring the department's email system and then having to take those, you know, email testimony, save it, and then submit it to the commission members while the meeting is going on and it's, it's really inefficient. So we're going to move forward with Dropbox, which is what the Maui County Council currently uses, which is essentially people submitting testimony. They, they put it in Dropbox and then you know you folks would be able to just pull it up instead of the SBCs trying to download it and then email it to you throughout the meeting.

5. Agenda items for the June 18, 2025 meeting.

Agenda items -- I'll skip over item number four -- agenda items for the June 18th meeting. I'm not aware of anything. I don't know Leilani, if you want to chime in, if there is anything some of the planners propose for the June 18th meeting.

Ms. Leilani Ramoran-Quemado: There is that item that was had to be republished, the public hearing.

Mr. Dias: Oh, yeah, that's right. Correct. Thanks, Leilani. Yeah that would be item number two on the agenda, which is the bill for an ordinance regarding amending the definition of agricultural retail structures. Out of the abundance of caution, we, we're tabling that for this meeting and then Greg will provide a, a more detailed description for next month. And that would be the only item that I'm aware of.

And then item D4, I don't know if we can discuss that or not. I'll let Corp Counsel advise us on that. Thank you Chair.

Mr. Gima: Thanks Danny. Commissioners, any, any questions about the Microsoft Teams or the Dropbox that Danny had mentioned? Nikki, Nikki and I were briefed on those two when we had our meeting last week. Leilani or, for June, can you include under the HCPO conference? I think most --. Did the commissioners, did you guys all get the email about the upcoming HCPO Conference in, I think, it's in Waikiki this year and I believe in August.

Ms. Leilani Ramoran-Quemado: This is Leilani. I will add it on to the agenda.

Mr. Gima: Okay. Yeah, hopefully we'll have an update on the LPC vacancies. There are two applicants, and I have not heard anything back from the Independent Nominations Board, so yeah, that should be on the agenda. Okay. Alright, let me try and call Negus again.

Ms. Lisa Grove: Chair, Commissioner Manna is on and texted that he's trying to get on his camera. So he has joined, he's just off camera at this point.

Mr. Gima: Who Manna?

Ms. Grove: Yeah.

Mr. Gima: Oh.

Ms. Grove: And he said that he will be on camera momentarily. I was texting him too.

Mr. Gima: Okay.

Mr. Negus Manna: Hi Chair.

Mr. Gima: Okay.

Mr. Manna: I had a little trouble getting on, but I'm here.

Mr. Gima: Okay, Negus, is anybody in the room with you?

Mr. Manna: No, Chair. Just by myself.

Mr. Gima: Okay. How's about you, Lisa?

Ms. Grove: Nope, I'm alone.

Mr. Gima: Okay. Erin?

Ms. Erin Atacador: No, I'm alone.

Mr. Gima: And Nikki?

Ms. Nikki Alboro: I too am alone.

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

1. STATE SPECIAL PERMIT

LĀNA'I RESORTS, LLC, doing business as PULAMA LĀNA'I, requesting a State Special Permit to continue operations at the Lāna'i City auxiliary R-1 wastewater treatment facility on 11.5 acres of land located at 310 Twelfth Street, Lāna'i, Hawai'i, Tax Map Key (2) 4-9-002:061 (por.) (SSP22023-00002) (K. Wollenhaupt)

Mr. Gima: Okay. I am also alone, so we're back on schedule with our agenda. So, first item for the public hearing is a State Special Permit. Lanai Resorts LLC doing business as Pulama Lanai, requesting a State Special Permit to continue operations at the Lanai City auxiliary R-1 wastewater treatment facility on 11.5 acres of land located at 310 Twelfth Street, Lanai, Hawaii, tax map key 2-4-9-002:061. I'll turn this over to you Kurt.

Mr. Kurt Wollenhaupt: Good evening commissioners. This is Kurt, and I'm in the Maui Planning Department office. And as the Chair had indicated today's first public hearing is a matter that's arisen for an application for a State Land Use Commission Special Permit on behalf of Lanai Resorts doing business as Pulama Lanai, involving the permitting of the existing Lanai City auxiliary R-1 wastewater facility, which is physically adjacent to the County's wastewater treatment facility.

It's important to note why we're here tonight, and that is because this existing facility and previously permitted facility is in the State and the County agricultural district, and it's also on 11.5 acres. So why is that important? It's important because when you have a project that requires a State Permit because it's in State Ag and a County Special Use Permit because it's in County Ag, you can get the State Land Use Commission Special Permit. In the past, known as an SUP2, or now because of our new computer system and SSP2, you need to get this Land Use Commission Special Permit for a project such as this, which is the R-1 wastewater facility as it's located on less than 15 acres. If this were located on a plot greater than 15, then the Lanai Planning Commission would review it. That review would go to the State Land Use Commission for their subsequent review. However, because the project side is 11 ½ acres, this body is the deciding body for our item this evening.

It's important to note that tonight no new facilities, no expansion, and no diminution of the existing facilities are proposed. Why we're here tonight is because back in 1994, the previous landowner was given a permit for this existing facility. Subsequently they did get an extension up to 2004. After that there was a change in ownership, new ownership found that this permit had expired. Therefore, we have an existing and important infrastructure facility on your island that does not have a permit. Therefore, tonight's review is really a memorialization of this existing project so that we'll have a permit that allows this facility to function.

This is a Land Use Commission Special Permit of which there's five criteria outlined on page four of the staff report. It's an unusual but a reasonable activity in the State Agricultural District to allow this critical infrastructure of recycling wastewater in order to reduce the need for portable water on irrigating areas such as the old Koele golf course, which is now going to be the adventure park area and the art garden area.

At this point in time, we have not received any notices of complaint from the notification that went out to the residents within 500 feet. Consequently, the Department in looking over this permit believes that allowing this facility to function is a critical component for Lanai, and we're recommending that the Commission approves this permit so that we now have a current up to date, functioning permit for the R-1 recycling facility. The applicant representing ownership, Dr. Dancil and Karlynn Fukuda of Munekiyo & Hiraga are available for your questions this evening. And that wraps up the Department's review of this project. Thank you.

Mr. Gima: Alright. Thank you, Kurt. Right, thank you Kurt. Before we go to commissioners' questions and comments, I want to open this up for public testimony. Leilani, anybody in the chat or in the Planning Department office?

Ms. Ramoran-Quemado: Thank you Chair. There's no one signed up in the chat and there's no one in the conference room. Thank you.

Mr. Gima: Okay, thanks. Roxanne, anybody in Council Member's office?

Ms. Grove: Did she leave a message saying she was having internet problems? I thought I saw that come up in the chat.

Ms. Ramoran-Quemado: Yeah, I see that also.

Mr. Gima: Okay, I see her. Okay, so there's no one wishing to testify so at this time I will close public testimony. Alright commissioners, questions for, or comments for Kurt or Karlynn or Keiki-Pua?

Mr. Manna: Chair, I have one.

Mr. Gima: Go ahead Manna.

Mr. Manna: Thank you. Kurt, is this 11 acres all one unit or is it parceled up? And then how long is the permit good for, please? Thank you.

Mr. Wollenhaupt: Thank you for the question. This is all contained within 11.5 acres on a larger parcel. And the proposal is to give them until May 31, 2035, so that would be a ten-year period for this permit to function. So it's a parcel within a larger area on which also is the County's wastewater treatment facility. Thank you.

Mr. Manna: Thanks again.

Mr. Gima: Okay, anybody else? Kurt, I had a question for you. I notice Pulama put in the app in July 2023, but things, nothing really happened until February 2025. Can you explain the gap?

Mr. Wollenhaupt: Well, I, I, I can, I can give a frank discussion, yes, in the sense that we're very short staffed here. It's not particularly a great explanation, but we do have some priority and this permit, it's an existing, it's a functioning facility, and we wanted to get it permitted, and so putting it into our timetable with all the other permits now that we're essentially we have one current planner five in the Land Use Division that's available at the moment, and then myself, so we've had some staffing issues. But it has taken some time, but we also want to get the report correct. I was able to go over there and take a site visit, so that's why it's taken some time to get approved. But we're glad that it's on tonight's agenda for discussion.

Mr. Gima: Okay, thanks, Kurt. Keiki-Pua or Karlynn, when did, when did Pulama take over operation of the R-1 plant? Because Aqua Engineers used to operate it for many years. Is that, was that accurate?

Dr. Keiki-Pua Dancil: Aloha Chair Gima. Mahalo for the question. So I'll break it down. Just a clarifying point. Kurt had mentioned that the County wastewater treatment was on the same parcel. They actually have their own TMK and that is not part of our 16,000-acre TMK of which 11.5 acres this facility before you was on. So slight clarification on that. The County

one is not on the same parcel, so Commissioner Manna, I just wanted to provide that information.

Back to Chair Gima's question. Pulama Lanai took over ownership of the facility in 2012, and we have a contract with Aqua Engineers as the operator, but we are still the owner. We will always be the owner of the facility and therefore hold the permit.

Mr. Gima: Yeah, the only re, the only reason why I asked is because in our packet it says the facilities owned and operated by the applicant. I had always thought Aqua was operating it.

Dr. Dancil: Sorry, that isn't an error. They are a contract, and they operate it.

Mr. Gima: Okay, thank you. Okay, last call for questions comments from the commissioners.

Mr. Manna: One more question, please.

Mr. Gima: Go ahead.

Mr. Manna: When was -- to, to Kurt -- when was the, the solicitation from neighboring people survey completed?

Mr. Wollenhaupt: Let's take a look. A notice of hearing was published on April 17th, and on April 14th, the applicant mailed a letter of notification to all owners adjacent and directly across the street for the SSP2 application. So April 14th.

Mr. Manna: Of 2025, sir?

Mr. Wollenhaupt: Yes.

Mr. Manna: Thank you very much.

Mr. Gima: Okay. We have, we're final authority on this agenda item, so if there are no further questions or comments, I'll entertain a motion to adopt the Department's report and recommendation prepared for tonight's meeting as its findings of fact, conclusions of law, and decision and order, and authorized Director to transmit said written decision and order on behalf of the commission.

Mr. Manna: Yes, Chair, I move to pass a motion to pass this as is.

Ms. Grove: I second.

Mr. Gima: Okay, it's been moved by Commissioner Manna and seconded by Commissioner Grove that we adopt the, adopt the department's report and recommendations prepared for the May 21, 2025 meeting as its findings of fact, conclusions of law, and decision and order,

and authorize the Director to transmit said written decision and order on behalf of the Commission. Okay, any further questions or comments on the motion? Okay, hearing none all in favor, please raise your hand.

Mr. Gima: Okay, motion is carried unanimously. Okay, thank you.

It was moved by Mr. Negus Manna, seconded by Ms. Lisa Grove, then unanimously

VOTED: to adopt the department's report and recommendation as its findings of facts, conclusions of law and decision and order, and to authorize the Planning Director to transmit said written decision and order on behalf of the Commission.

*(Assenting: N. Alboro, E. Atacador, R. Gima, E. Grove, N. Manna)
(Excused: M. Fujie-Kaauamo, S. Rabaca)*

(Motion carries.)

Mr. Wollenhaupt: Thanks everybody. There's always opportunities to learn. You think you've gone through this ten times, and you find a new piece of information. So thank you.

2. ***DUE TO AN ERROR IN THE PUBLIC HEARING NOTICE'S DESCRIPTION, THE FOLLOWING ITEM WILL BE RE-PUBLISHED IN THE NEWSPAPER WITH THE CORRECTED DESCRIPTION AND RE-SCHEDULED FOR THE JUNE 18, 2025, LĀNA'I PLANNING COMMISSION MEETING:***

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.30A (AGRICULTURAL DISTRICT), MAUI COUNTY CODE, WHICH WOULD AMEND THE DEFINITION OF "AGRICULTURAL RETAIL STRUCTURE" TO INCLUDE "VEHICLE" AND "STRUCTURE ON WHEELS" AS TYPES OF AGRICULTURAL RETAIL STRUCTURES

MS. KATE L. K. BLYSTONE, Planning Director, referring to the Maui, Moloka'i and Lāna'i Planning Commissions, a proposed bill to amend Maui County Code Chapter 19.30A; allowing "vehicle" and "structure on wheels" to be added as types of agricultural retail structures to the definition of "Agricultural Retail Structure." The bill would allow "vehicle" and "structure on wheels" to be considered as types of agricultural retail structures, thereby allowing them, under certain provisions, to be considered as permitted accessory uses in the Agricultural District. Note that County Council Resolution No. 25-60, FD1, referring this bill to the Planning Commissions for their review, findings and recommendations to the County Council also included a proposed change to Section 16.25.105.2 "Work exempt from permit." The Planning Commissions are only responsible for reviewing and providing recommendations on proposed land use ordinances affecting

Title 19 – Zoning Code and not Title 16 – Buildings and Construction. (G. Pfost)

The entire text of the proposed bill for ordinance is available at: <https://www.mauicounty.gov/DocumentCenter/View/152042/Reso-25-60-FD1>

Mr. Gima: So Adrian, on this next agenda item, do I, do we need, because it's just an error, do I need to read the whole thing for the record?

Mr. Reifsnyder: I'm not entirely sure, maybe just as a good practice, you could do so real quick. Caleb, do you know for sure?

Mr. Rowe: Hi Chair, since it, it does say on there that it isn't being considered on there, I don't think we need to read it. It's just showing that it was originally posted and has been taken off the record, so I don't think you need to unless you want to.

Mr. Gima: Okay, I'll just mention that it's going to be coming, this agenda item, a bill for an ordinance amending Chapter 19.30A, Agricultural District, Maui County Code, which would amend the definition of agricultural retail structure to include vehicle and structure on wheels as types of agricultural retail structures, will be heard at our June 18, 2025 meeting. Will that suffice, Adrian? Okay, thank you.

3. A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.64 (BED AND BREAKFAST HOMES), MAUI COUNTY CODE, WHICH WOULD AMEND SECTIONS 19.64.030(C) AND 19.64.030(N) PERTAINING TO RESTRICTIONS AND STANDARDS FOR BED AND BREAKFAST HOMES

MS. KATE L. K. BLYSTONE, Planning Director, referring to the Maui, Moloka'i and Lāna'i Planning Commissions, a proposed bill to amend Maui County Code Chapter 19.64 – Bed and Breakfast Homes. The proposed bill would clarify that an owner-proprietor applying for a bed and breakfast home permit while their single-family dwelling is being reconstructed or repaired following a disaster does not have to reside, on a full-time basis, on the same lot being used as the bed and breakfast home until the dwelling has been reconstructed or repaired. Further, the bill would also allow an exception to the requirement that a single-family dwelling must have been constructed at least five years before an application for a bed and breakfast home permit is submitted provided that the existing single-family dwelling was damaged or destroyed by a disaster and was constructed at least five years prior to the disaster. (G. Pfost)

The entire text of the proposed bill for ordinance is available at: <https://www.mauicounty.gov/DocumentCenter/View/151842/Reso-25-48>

Mr. Gima: Okay moving on. Public hearing item number three, a bill for an ordinance amending Chapter 19.64, bed and breakfast homes, Maui County Code, which would amend Sections 19.64.030C and 19.64.030N, pertaining to restrictions and standards for bed and breakfast homes. Ms. Kate L. K. Blystone, Planning Director, referring to the Maui, Molokai, and Lanai Planning Commissions, a proposed bill to amend Maui County Code Chapter 19.64, bed and breakfast homes. The proposed bill would clarify that an owner proprietor applying for a bed and breakfast home permit while their single-family dwelling is being reconstructed or repaired, following a disaster, does not have to reside on a full-time basis on the same lot being used as the bed and breakfast home until the dwelling has been reconstructed or repaired. Further, the bill will also allow an exception to the requirement that a single-family dwelling must have been constructed at least five-years before an application for a bed and breakfast home permit is submitted, provided that the existing single-family dwelling was damaged or destroyed by a disaster and was constructed at least five-years prior to disaster. Okay Greg, we'll turn this over to you.

Mr. Greg Pfof: Great. Thank you Chair. Thank you Members of the Commission. I have a real brief power point presentation if you can bear with me and see if I can get this on here. Okay, hopefully you can all see that. Thank you again for being here. Greg Pfof, the Administrative Planning Officer, with the Planning Department. This is an item that was initiated by County Council back in February of 2025 through the adoption of Resolution 25-48, which is attached to your packet. And that refers this bill to the planning commissions for their review, action, and transmittal back to the Council.

The Molokai Planning Commission considered this bill back on May 14th. We're here tonight with the Lanai Planning Commission, and the Maui planning Commission will hear this in July, but a date has not yet been determined.

I'd like to give you maybe a little bit of background if you're not familiar with bed and breakfast homes. Our current code has a, defines bed and breakfast homes, basically as an overnight accommodation for guests for less than a 180 days and no more than two detached single-family dwelling units. Importantly, one of which must be occupied by the owner of proprietor. And so that person needs to, the owner needs to be on property. Each bed and breakfast home shall include bedrooms, kitchen, living areas. It shall be no more than six bedrooms and then there's other requirements within the code. Specifically, the bed breakfast permits are only allowed through a permit that's issued by the Planning Director or the respective planning commissions. It has a specific duration and renewal and revocation processes that are all defined within the code for bed and breakfasts.

Additionally there are importantly 21 specific restrictions and standards within the code that define how bed and breakfast homes shall operate in their application procedures. And specifically tonight we're going to be talking about two provisions that were recommended to be revised by the County Council.

The first one is 19.64.030C, and that current code says the owner proprietor must be a resident of the County and must reside on a full-time basis on the same lot being used as the bed and breakfast home. Also, it's a proposed revision to 19.64.030N, which indicates a bed and breakfast homes must be limited to a single-family dwelling constructed on it, constructed at least five-years prior to the date of the application for the bed and breakfast home permit. And the dwelling unit must be owned by the applicant for at least five-years prior to the date of the application.

The proposed amendment before you was the Council initiated that out of a concern that these two provisions do not account for large disasters where the structure may have been destroyed or severely damaged such as what we experienced back in August of 2023. And the proposed revisions are before you on the screen here and also within your packet specifically regarding 19.64.030C. The first sentence remains the same where it says that owner proprietor must be a resident of the County and must reside on a full-time basis on the same lot being used as a bed and breakfast home, and adding except that if an owner proprietary applies for bed and breakfast home permit while their single-family dwelling is being reconstructed or repaired, following a disaster, they do not have to reside on a full-time basis on the same lot being used as a bed and breakfast home until the dwelling has been reconstructed or repaired. So now –

Mr. Gima: Excuse me, Greg.

Mr. Pfof: Uh-huh.

Mr. Gima: Do you want to scroll down?

Mr. Pfof: Scroll down.

Mr. Gima: On your, on your slides.

Ms. Grove: We're all just seeing slide one.

Mr. Pfof: Really?

Mr. Gima: Yeah.

Mr. Pfof: I'm so sorry. That's interesting. Okay, bear with me for a moment. Let me try this again. Let me see. That's really awkward. So here we are. I'm so, I apologize. Here's the actual proposed revisions. You see this slide, correct?

Mr. Gima: Yes.

Mr. Pfof: Okay, I apologize. So the proposed revision here is actually you can see under 19.64.030C, the owner proprietor must be a resident of the County and must reside on a full-time basis on the same lot being used as a bed and breakfast home. So that text is

what's existing in the code. And then the section that's being added is in the bold underline except that if an owner proprietor applies for a bed and breakfast home permit while their single-family dwelling is being constructed or repaired following a disaster, they do not have to reside on a full-time basis on the same lot being used as a bed and breakfast home until the dwelling unit has been reconstructed, repaired. Basically allowing the owner to live on another site while their home is being reconstructed or repaired, repaired and the bed and breakfast permit can continue to be operated.

The second provision amendment, as you can see in the, it retains the first portion. Bed and breakfast homes must be limited to a single-family dwelling constructed at least five-years before the date of application for the bed and breakfast home permit and the dwelling unit must be owned by an applicant for at least five-years prior to the date of the application. And then adding to that except that if a single-family dwelling was constructed at least five-years before the, before being destroyed or damaged in a disaster, the applicant does not have to wait to apply and be qualified for bed and breakfast home permit following reconstruction or repair. So this basically allows for an application to be submitted on a property where the structure was damaged or destroyed without having to wait until the structure was rebuilt and having to wait five-years to actually submit for your application.

So the department is recommending approval of the attached ordinance basically because it considers the scale and destruction that can be caused by disaster and it allows bed and breakfast to be reasonably submitted, permits to be reasonably submitted and processed without delay that otherwise would be required by the Code.

Mr. Gima: Greg . . . (inaudible) . . . again.

Mr. Pfof: I'm sorry?

Mr. Gima: You're going to change your slide again.

Mr. Pfof: What is happening with my slide?

Mr. Gima: There you go.

Mr. Pfof: Sorry. You see that one now?

Mr. Gima: Yes.

Mr. Pfof: Sorry about that. The Planning Commission's options tonight is to recommend approval the ordinance to the County Council, recommend approval ordinance with amendments, recommend denial of the ordinance, or vote to defer the action to gather specific additional information. And that concludes my presentation.

Mr. Gima: Alright, thank you Greg. This time I'll open it up for public testimony. Leilani, anybody in the Planning Department Office or online?

Ms. Ramoran-Quemado: Thank you Chair. There's no one signed up either on chat or there's no one in the conference room. Thank you.

Mr. Gima: Thanks Leilani. Roxanne? Okay, thank you Roxanne. No one to the Council Member's office. So at this time I will close public testimony, open it up for commissioners for questions and comments. Nikki?

Ms. Alboro: Ah Greg, we, we had a pre-meeting before this meeting with Danny and whatnot, but I had just wanted to ask. So it says in your presentation, at the bottom, it says importantly the provision would require that the owner eventually reside on the property during the operation of the bed and breakfast home. So that doesn't really give like a time frame or a deadline. So my question was, you know, if you're, if both your dwellings burn down, which is super unfortunate, and again just asking a question, and you only had enough money to build your bed and breakfast. So you let your bed and breakfast operate five, eight, ten years and then decide, okay, now I'm going to build my house. Is there, is there any limit? Like there's no limitation or, or, you know, deadline on your actual residence?

Mr. Pfof: That's exactly correct. And interestingly the Molokai Planning Commission identified that as a, as a similar issue as well, concerned about the time frame to, to reestablish the residence in which the proprietor would be living in. And their recommendation was to, that the Council adopt, include some sort of a time limit for reconstruction of the home. I mentioned that the Molokai Planning Commission, as I will again here tonight, it's importantly a bed and breakfast permit is up for renewal, right? So you're, it's, it's, it's issued for a certain duration period of time, and then when that duration is just prior to that being over, they have to submit or resubmit for a renewal of that bed breakfast permit. So there is a mechanism in which we could monitor that on, on reconstruction occurring, but I think it's a good point and I think that's the same point that the Molokai Planning Commission recommended to the Council that they come up with some sort of a limitation on the time limit on reconstruction.

Ms. Alboro: Yeah, because your, in the Molokai resolution, on the back page it shows that West Maui has 88 bed and breakfasts. So am I reading that wrong?

Mr. Pfof: You may be --

Ms. Alboro: Resolution number 25-48? So like I think it's on --

Mr. Pfof: West Maui is limited to 88 permits. I believe they have 14, right now.

Ms. Alboro: Okay I thought that was the actual number. But, no, that was just my question because it turns into a short-term rental if you don't, you know, have a residence.

Mr. Pfof: Yeah, I, I think that's a really good point and if it's the Commission's desire I will, you know, if that's your desire tonight I will also forward that recommendation from the Lanai

Planning Commission. I know I'm going to be forwarding that, that recommendation from the Molokai Planning Commission.

Ms. Atacador: Chair, you're muted still.

Mr. Gima: So Greg, Maui County Council has the final say. When did the clock start and when does it end?

Mr. Pfof: The clock -- thank you for the question -- the clock started on February 7th or shortly thereafter when we received the bill. Unfortunately, so that gives you 120 days till June 7. The Maui Planning Commission is not going to be able to hear this until July, so it's going to be beyond the 120-day time limit when it gets back to Council.

Mr. Gima: Okay, does the, does the County see any fiscal impact with this amendment?

Mr. Pfof: No, I don't, I don't, I don't think so. Not that to my knowledge. You received the correspondence that mentioned that was in support of it. It did mention that the, I think, they summarized the estimated property tax that the, that the County or that the County gets as a result of having bed and breakfast permits, and was recommending approval of this bill so they can continue operating. So I think there is some minimal fiscal revenue that, that the County would see. I think, I think that's a, that was a good point, but I don't really see that you have a major fiscal impact related to this.

Mr. Gima: And lastly, any specific pros and cons you want to highlight for this amendment?

Mr. Pfof: I mean I think, that, I think the pros, I think if this ordinance does have some benefit to those B&B breakfast operators to allow them to continue when . . . (inaudible) . . . they have seen some unfortunate circumstances as a result of disaster. So I think this, this is warranted and that's why the department supports it.

I do not see any cons with the proposed ordinance revision other than I think it was a good point that was raised tonight as well as at the Molokai Planning Commission regards to timing, and so we're going to take that forward to the, to the Council.

Mr. Gima: Okay, thanks Greg. So, before I entertain a motion, Nikki, are you, are you considering including an amendment to, this proposed bill? Or are you satisfied with what the Planning Department will forward to County Council from what the Molokai discussed?

Ms. Alboro: I, I guess if you could just clarify. I didn't catch what Molokai's recommendation was.

Mr. Pfof: Sure if I may. There were, actually there were two, two recommendations that they put forward. One was that, in that first section 19.64.030C, they wanted to emphasize the first sentence of the existing text that says the owner proprietor must be a resident of the County. They wanted to put a period right there to make sure that that was, that was

emphasized and there would be no ambiguity in that as it. They felt that there may have been some ambiguity, so they wanted to put a period after County. And then start with the owner, also the owner operator, the owner proprietor must reside on a full-time basis on the same lot being used as the bed and breakfast home. And then at the end of the sentence or the end of the -- I'm sorry -- the end of the new section, with adoption of some sort of a time limit for reconstruction, and they didn't indicate for how long. They didn't get specific. It was more of just a general recommendation, so for the Council to probably do its own wordsmithing on, on whether or not it wants to do that or not. So that's, that's basically it.

Mr. Gima: Nikki, do you have any time frame in mind that you were considering?

Ms. Alboro: I mean if they're getting a, a permit renewal, I mean I would say within the five-years, but that's just my thinking. Before you can get your permit renewed, you have to have your residence built, you know, for the next five-years. So you give them a five year now and then they have five years to build their permanent residence on the property.

Mr. Gima: How do the rest of you guys feel about that? Go, go ahead Manna.

Mr. Manna: Thank you Chair. I would agree with Nikki. Yeah, I would recommend approval with the amendments that Nikki said in line with the Molokai Planning Commission of adopting a time frame for reconstruction within that five-year period. Yeah, so I would be in agreement with Nikki. Thank you.

Mr. Gima: Okay, if there are no objections to Nikki's recommendation or, or amendment, I will entertain a motion to recommend approval of the proposed bill with Nikki's time limit amendment and our concurrence with the Molokai Planning Commission's amendments to the County Council.

Mr. Manna: Yeah Chair, I'd make a motion to recommend approval with amendments aligning with Nikki's comments and the Molokai Planning Commission.

Ms. Atacador: I second.

Mr. Gima: Okay, it's been moved by Commissioner Manna, and seconded by Commissioner Atacador that we recommend approval of the proposed bill with the time limit amendments, amendment noted by Commissioner Alboro, and that we're also in concurrence with the Molokai Planning Commission's amendments and these going to the County Council. Okay, any further discussion or questions on the motion? Alright? Oh, go ahead, Lisa.

Mr. Grove: I'm completely with all, all of this. The one concern I have on the time limits is that there's a lot of circumstances outside the control of the builder. And I, I would, I would feel more comfortable if we knew that five years was enough. I mean, we know that there's Planning Department and their staff staffing issues. We know there's been supply chain issues. And construction costs of soared as well as building supplies and we're, we could be facing down some tariffs in those regards in, in that regard, and maybe we say that's fine.

But I worry just a little bit that there are so many circumstances outside of the control of the, the homeowner trying to rebuild that they could get stuck in a five year, five years may not be enough. And the one thing I know from all the survey work I did among fire, the fire survivor community is that the lack of certainty is the most destabilizing, and I, I feel like there's a lot of things that are uncertain with putting a, a time limit on that may end up adversely impacting these folks, but I'm not a construction expert, so I don't know. I'm just flagging that as a, a minor concern. I'm still prepared to vote yes for this, but I'm a little worried about it.

Mr. Gima: Okay.

Ms. Grove: And to be clean, it's not timeline, it's not the idea of a time limit, I think that's a super important point. It's the five years.

Mr. Gima: So you just, you just want to put on the record your, some of your hesitations not necessarily offering a different time timeframe.

Ms. Grove: Correct.

Mr. Gima: Okay. Duly noted. Thank you. Okay, any further questions, comments about the motion on the floor? Hearing none, all in favor, please raise your hand. Okay motion passes unanimously. Thank you very much.

It was moved by Mr. Negus Manna, seconded by Ms. Erin Atacador, then unanimously

VOTED: to recommend approval of the proposed bill, to the Maui County Council, with the time limit amendment, as discussed, and the Commission's concurrence with the Molokai Planning Commission's amendments.

*(Assenting: N. Alboro, E. Atacador, R. Gima, E. Grove, N. Manna)
(Excused: M. Fujie-Kaauamo, S. Rabaca)*

(Motion carries.)

Mr. Pfost: Thank you Commissioners.

C. COMMUNICATIONS

1. SPECIAL MANAGEMENT AREA USE PERMIT TIME EXTENSION

MUNEKIYO HIRAGA on behalf of LĀNA'Ī ESTATES, LLC, requesting a Special Management Area Permit time extension to complete construction of the Kaluako'i Estates Project, five single family residences, located within the Mānele Residential Subdivision, Lāna'i Project District 1, Mānele, Lāna'i, Hawai'i at TMK: (2) 4-9-017:014, 015,

016, 017, and 018 (SM12020-0006, PH22020-0002) (R. Liles)

Mr. Gima: Okay. Alright, we are now moving on to communications item on the agenda. Special Management Area Use Permit time extension. Munekiyo Hiraga, on behalf of Lanai Estates LLC requesting a Special Management Area permit time extension to complete construction of the Kaluako'i Estates project, five single-family residences located within the Manele Residential Subdivision, Lanai Project District One, Manele, Lanai, Hawaii, at TMK 2-4-9-017:014, 015, 016, 017, and 018. I will turn this over to Robin.

Ms. Robin Liles: Good evening Commissioners. My name is Robin Liles. I'm a planner here at the Planning Department. So, what is before you today is a time extension for a previously approved SMA Major Use Permit. This matter arises from an application for amendment to condition number two of the SMA Major Use Permit to extend time to complete the construction of the project by an additional five years or until May 3, 2031. The SMA Rule of the Lanai Planning Commission allows for amendments to permit terms and for time stipulations.

A brief history of this project, this project. So on October 21st in 2020, the Planning Commission voted to approve an SMA Use Permit for Kaluako'i Estates, which is the project before you. On May 3, 2021, the applicant notified by the Planning Department that construction for the project had been initiated. Condition number two, as currently written today, gave five years after initiation to complete the project, which would be May 3, 2026. On February 10, 2025, the applicant, the applicant submitted a five-year time extension request with the Department. This application was timely filed. Construction for Kaluako'i Estates is nearing completion for parcels 15 and 16, and is ongoing for parcels 14, 17 and 18. Construction began during the COVID-19 pandemic, which caused significant delays in materials, labor, and limited travel. In addition, the wildfire events of August 23 significantly impacted the County's resources and permit review has been significantly delayed. Since the granting of the SMA Use Permit in October of 2020, there has been no substantial adverse environmental or ecological effect. There are no violations on the property and the applicant is currently in compliance with all conditions of approval. And, and that is my review of the project. If you'd like I can give recommendations or if you have any questions.

Mr. Gima: Okay, thank you Robin. We'll come back to you when the Commissioners offer questions and comments. At this time I'll open it up for public testimony. Leilani, anyone in the chat or in the conference room?

Ms. Ramoran-Quemado: Thank you Chair. There's no one signed up on the chat and there is no one in the conference room. Thank you.

Mr. Gima: Thank you. All right, thank you. Roxanne? All right, no one in the Council Member's office. So at this time I will close public testimony and open it up for questions comments from the Commissioners to Robin and I guess Karlynn and Keiki-Pua, if you so choose. Okay Manna?

Mr. Manna: Thank you Chair. Hi Robin. Yes, could you read your recommendations? This is a new thing for me. And also could you elaborate if a five-year extension is normal extension or is there a less or more time that's usually granted? Thank you.

Ms. Liles: I would say that, yes, a five-year extension is pretty average for projects especially larger projects such as these. It goes off of what the applicant realistically thinks they need to finish the project, and so that's kind of where we go, but I would say yes that five years is common.

The recommendations, so the Maui County Planning Department recommends approval of the time extension stated in condition number two, which would extend the time to complete construction by an additional five years or till May 3rd, 2031. In consideration of this foregoing, the Planning Department recommends that the Lanai Planning Commission adopts the Planning Department's report and recommendation prepared for the May 21st, 2025 meeting as its findings of fact, conclusions of law, decision and order, and authorize the planning, the Director of Planning to transmit the said decision and order on behalf of the Planning Commission.

Mr. Manna: Thank you, Robin.

Mr. Gima: Okay, anything else Manna? Okay, Erin, Lisa, Nikki, questions, comments? Okay, go ahead Lisa.

Ms. Grove: I have a question for Dr. Dancil, which is do you, I mean, is it anticipated that it's going to take the full five years to complete this project? I'm, I'm asking just because that obviously impacts construction workers and other folks on our island.

Dr. Dancil: Mahalo, Commissioner Grove, for the question. We do anticipate finishing construction in the two lots that we have all the permits for and that are near the end of construction. The other three lots, we've done the civil work. However, we are stuck in permitting. The County is significantly delayed and your comments to the last application or the last matter on the agenda are right on point. There's, there's a lot of delays and short-staffed and, you know, a lot of other priorities out there. So, we, we submitted these permits back in 2021 and they're still under review.

Ms. Grove: Thank you very much. That's super helpful.

Mr. Gima: Okay, Adrian, so we have, planning commission has final authority on this matter, correct? You're on mute.

Mr. Reifsnyder: Oh, apologies. The question was that the planning commission has final decision on this?

Mr. Gima: Yes.

Mr. Reifsnyder: Yes, yeah, Special Management Area Use, yeah.

Mr. Gima: Okay, and when did the clock start on this one and when does it end?

Mr. Reifsnyder: I have to review the rules on that, Chair. Can I get that back to you in a brief minute –

Mr. Gima: Sure.

Mr. Reifsnyder: Or if Caleb knows off the top of his head?

Mr. Gima: And then pro, procedurally, we can only discuss the merits of the time extension request, right? Not the merits of the actual project. Is that accurate or inaccurate?

Mr. Reifsnyder: I'm actually, I, I need to review the special, the Special Use Permit Rules just I'm not quite familiar on those. So I'll defer to Caleb, or I can get back to you in a couple of minutes.

Mr. Gima: So Robin, you said that this was timely submitted and actually it's really early, right?

Ms. Liles: Right? Yeah, it doesn't expire until May of next year, so they are --

Mr. Gima: Okay.

Ms. Liles: They gave plenty of lead time to process.

Mr. Gima: And, how, how close is this to the or -- bay area boundary? How close is this project to that?

Ms. Liles: There should be in your packet, exhibits, let me see which one it is. I think it's exhibit one, which should show the, the map. It's not, it's in the SMA, it is not shoreline.

Dr. Dancil: Chair, may I answer the question?

Mr. Gima: Sure.

Dr. Dancil: All of the lots are within the SMA.

Mr. Gima: Okay, thank you. And then, let's see. Keiki-Pua, when you said two of the residences are almost done and there's three that you're still waiting on permits? Or did I hear that wrong?

Dr. Dancil: Thank you Chair for the question. You are correct. We have two lots nearing completion and three lots we are waiting for building permits. You need building permits for

retaining walls and for all of the different structures. There's a mix of whether there, some have been issued and many are in review. Most are in review.

Mr. Gima: But they're more than two structures already built?

Dr. Dancil: That is correct.

Mr. Gima: So I, I guess I'm confused.

Dr. Dancil: Okay, let me -- so there are two lots and those are nearing completion. There are several structures on each of the lots. And so the two lots are nearing completion because we have the permits for those. There are three other lots in which we do not have all of the permits for all of the structures, and they are still in review.

Mr. Gima: Okay. So there, there's five, five lots and then on each lot, how many buildings will there be? Or maybe, maybe I should say the, the ones that are completed, the two lots that you have permits for, how many buildings are on those two lots?

Dr. Dancil: So Chair, I can direct you to your staff report.

Mr. Gima: Okay.

Dr. Dancil: And so give me a second while I open up my screen to pull that item up on the screen. And if you look in exhibit two, starting on page, what is that? Eleven of 54, you have various, different drawings. And if you continue on past page eleven you can see the different structures.

Mr. Gima: So which lots do you have permits for?

Dr. Dancil: What we have multiple permits on the various different lots. Lot 121 is nearing completion and lot 122 is nearing completion. We have the permits for those lots.

On the other various lots, there are some permits that we have received and some that we have not received. I'll start with lot 120. Lot 120, we have one, two, three, four in review and four that are issued. The four that are in review are for the dwelling, the detached garage, the onsen, and the utility building. Retaining walls one, two, three, and four have been issued.

I'll move on to lot 123. Lot 123 are all in review. A dwelling, a detached garage, a utility building, and a retaining wall.

I'll move to lot 124. Lot 124, we have one, two, three, four, five different things in review; the main dwelling, the detached garage, the utility building, and two retaining walls. And that concludes all of the permits for the items that you are asking questions about.

Mr. Gima: Okay, that was helpful. Adrian, were you able to get the information?

Mr. Reifsnyder: Yeah, Chair. I believe it's 30 days, but I'm still doing a little bit more reading just to make sure.

Mr. Gima: And so the clock starts today?

Mr. Reifsnyder: Yeah. But I, I will, I'll give you a final determination on that in just a couple more minutes, sorry.

Mr. Gima: Any, any fiscal, Robin, any fiscal impact to the Planning Department if this is approved for the five-year extension?

Ms. Liles: Ah, no, no fiscal impact.

Mr. Gima: Okay, and do you want to highlight any pros and cons for approving this or for the request for this extension?

Ms. Liles: Um, I would say primarily it's the, that the full review of the project took place during the actual SMA Use Permit process and that the time extension doesn't change any of those approvals or change any of those conditions that were placed on the project. Those will all remain in effect and, the time extension just allows them to complete the approved process project.

Mr. Gima: Thanks Robin. Alright Commissioners, last call on questions, comments for Robin or Keiki-Pua or Karlynn.

Mr. Manna: Chair?

Mr. Gima: Manna?

Mr. Manna: Yeah, I'd just like to make a comment, I think Keiki-Pua has been very transparent, and proactive in seeking this extension before the expiration of their permit, and so I would be in agreement with approving the extension as is. Thank you.

Mr. Gima: Alrighty, if there are no other comments or questions, I'll entertain a motion to adopt the Planning Department's report and recommendation prepared for the May 21st, 2025 meeting as its findings of fact, conclusions of law, decision and order, and authorize the Director of Planning to transmit said decision and order on behalf of the Planning Commission.

Mr. Manna: Yes, Chair, I make a motion to approve that extension as is.

Ms. Grove: I'll second.

Mr. Gima: Okay, it's been moved by Commissioner Manna, seconded by Commissioner Grove that we adopt the Planning Department's report and recommendation prepared for the May 21st, 2025 meeting as its findings of fact, conclusions of law, decision and order, and authorized the Director of Planning to transmit said decision and order on behalf of the Planning Commission. Okay, any further discussion on the motion? Alright, hearing none all in favor, please raise your hand. Okay, thank you. Motion carries unanimously.

It was moved by Mr. Negus Manna, seconded by Ms. Lisa Grove, then unanimously

VOTED: to adopt the department's report and recommendation as its findings of facts, conclusions of law, decision and order, and to authorize the Planning Director to transmit said decision and order on behalf of the Planning Commission.

(Assenting: N. Alboro, E. Atacador, R. Gima, E. Grove, N. Manna)

(Excused: M. Fujie-Kaauamo, S. Rabaca)

(Motion carries.)

- 2. MS. KEIKI-PUA S. DANCIL, Ph.D., Senior Vice-President of Governmental Affairs, PULAMA LĀNA'Ī, submitting the Q1 2025 quarterly report, pursuant to Condition No. 15, for the Project District Phase II Application for the Four Seasons Resort, Lāna'i, Koele Proposed Improvements (PH2 2017/0001)**

The Report is provided to the Lāna'i Planning Commission for its review.

Mr. Gima: Alright moving on. Second communication item, Ms. Keiki-Pua Dancil, Ph.D., Senior VP of Governmental Affairs, Pulama Lanai, submitting, submitting the Q1 2025 quarterly report pursuant to condition number 15 for the Project District phase two application for the Four Seasons Resort Lanai, Koele propose improvements. Okay, turn this over to you, Keiki-Pua.

Dr. Dancil: There we go. Sorry about that Chair. Thank you very much commissioners. Back again for our quarterly report. This is Q1 2025. Hotel irrigation, excluding, hotel property excluding irrigation was 23,429 gallons per day. Hotel irrigation was 34,448 gallons per day. Looking at a similar period on the periodic water reports, in total, this equated to approximately 3.4 percent of the amount pumped during the same period. And that concludes my report. I'm here for any clarifying questions. Thank you very much.

Mr. Gima: Thanks Keiki-Pua. Anyone wishing to testify either at the Council Members Office, or online, or at the County conference room?

Ms. Ramoran-Quemado: Thank you Chair. There's no one signed up or in the conference room.

Mr. Gima: Okay, thank you. No one's there either, right, Roxanne? Okay, I will close public testimony. Commissioners, questions or comments for Keiki-Pua? Keiki-Pua, just, just to help refresh my memory, what, can you give us just a Reader's Digest version of what the proposed improvements were that that prompted this water report?

Dr. Dancil: I believe it was for the remodel of the hotel and, in the back area and the spa hale. So it's renovations back in 2017.

Mr. Gima: Okay, thank you. Alright, if there are no further comments or questions, thank you Keiki-Pua.

Dr. Dancil: Thank you.

Mr. Gima: Alright, let's take a, let's take a ten-minute recess and then we'll finish up with the status of the Planning Commission SMA permit rule change proposal. So be back at 6:21 p.m.

(The Lanai PC recessed at 6:11 p.m., and reconvened at 6:21 p.m.)

D. DIRECTOR'S REPORT

4. Status of the LPC SMA permit rule change proposals.

Mr. Gima: It's 6:21 p.m., we are back on the record. So last agenda item is status of the Lanai Planning Commission Special Management Area Permit Rule change proposals. So before I turn this over to Danny, just a couple of things. One, I sent to Leilani who then send all of you a kind of list of the SMA areas around the island, and for, for reference in some context. If you read up above, initially it was 500 feet all around the whole island and one of the Planning Commissions back seven, eight years ago made these changes, which I think were very, very helpful.

And secondly, wanted to do a real quick summary. I got together, talk story with, with Sally. So as a summary in, in 2008, the Planning Commission voted unanimously to adopt changes to our rules to have SMA exemption applications moved to the commission for review and approval instead of the Planning Director.

In 2023, planning commission asked the Planning Department to prepare changes to our rules, so the Lanai Planning Commission, commission would also review and approve SMA minor permits. Unaware of the previous history, the Planning Department suggested that the LPC considers sending exemption approval back to the Director. After much discussion and review of the . . . (inaudible) . . . the planning commission in March 2024, you voted unanimously to leave SMA exemptions review with the Lanai Planning Commission.

So just to recap, the only issue before us tonight is a discussion on proposed language, language appropriate to enact rule change to SMA minor permit review and approve,

approval that is being proposed by the Planning Department. And as I had mentioned, I think several meetings ago when I did some research, there were only five minor, SMA minor applications between 2018 and 2023. So when we get to the point of further discussion, I have some also some amended language to what the Planning Department had, had proposed.

And lastly, we noted on the Lanai Planning Commission website of the Planning Department, there's a kind of an outdated power point presentation because in there it says the dollar threshold is \$125,000, and then the, the accurate number, I believe, is \$500,000. Is, is that right Adrian or Danny?

Mr. Dias: Ah, okay. It, it was 500,000 for, for many years. I do believe this year the Hawaii State Legislature had new legislation to bump that up to \$750,000, and, but I don't know if the, the Governor signed it yet. But yeah, so it, it actually will go even higher than what it is, so 750,000. And I think there's some language in there that factors like inflation and so forth, so that number will sort of automatically go up in time. Because what has happened in the past is, you know, 125,000, you know, that, that covers a lot of projects and then, you know, the years go by with inflation, increased in construction costs, etcetera, all of a sudden, you know, that number's insufficient and so the legislature, like I mentioned, you know, not only raised it but also factored in, you know, price increases over time.

Mr. Wollenhaupt: Oh, and this is Kurt and just to add to that, yes indeed, the, we now have, but we have a tiered, a tiered SMA minor level. 750,000 unless that parcel is on the shoreline or so affected by certain environmental, and they're leaving that at 500,000. So each property will have to be determined by the planner to determine are they in the 750,000 category or in the 500,000. So it just is another wrinkle in the complexity of SMA law.

Mr. Gima: So I, I think we just brought that up that maybe it would be wise to remove that power point since the 125,000 is no longer accurate.

Mr. Dias: Okay, thanks, Chair.

Mr. Gima: And lastly, I think --

Mr. Reifsnyder: Chair, sorry to interrupt you. I just wanted to -- I'm not sure if it's good time now or maybe at the end of the meeting, but I do have some clarification on your answers, or on your questions, previously.

Mr. Gima: Okay. We'll, we'll finish this up and then we'll come back, come back to you Adrian. Thank you.

Mr. Reifsnyder: Yeah, thank you.

Mr. Gima: So again, I think discussion over the, you know, from way back to 2008 was there was a sentiment of a number of commissioners that the whole concept of, of home rule, us

having the, you know, the final say, us having the, a lot of the background information to, to make an informed decision on, on these SMA applications. And I think, I think it was you Erin that had brought it up about on a prior minor permit that the Planning Commission, the Lanai Planning Commission wasn't notified properly or in a timely manner. Is that accurate, Erin?

Ms. Atacador: Yes, Chair, I think that was it.

Mr. Gima: Okay. thank you. All right, Danny, I'll, I'll turn this over back to you.

Mr. Dias: Thank you, Chair. I think you summarized everything up pretty good. I guess I'll just add we did send the Commission a memo and per your request from the last meeting included in that memo is proposed draft language to basically put the Lanai Planning Commission as the approving authority for SMA minor permits. And per request from Sally Kaye, we also included minutes from the March 19th, 2008 Lanai Planning Commission meeting, your December 3, 2023 commission meeting, and your March 20, 2024 commission meeting for context. We also included the current Lanai Planning Commission's Special Management Area Rules. I believe the next step is basically, you know, the discussion from the commission, giving the Planning Department guidance on specifically what changes you want with your SMA Rules. At that point we would then work with Corporation Counsel to draft that specific language. And then at a future Lanai Planning Commission meeting have an actual public hearing on this item. We may, I'm not sure we'll have to verify this. I know when the Maui Planning Commission changed their SMA Rules, we did notify some property owners. Not everybody in the special management area, but we did notify those that had shoreline properties. So we may do that for the Lanai, just sort of depending on obviously, you know, how much property owners are affected. But I believe that would be the next steps and I don't know Kurt if you want to jump in and add anything to what I said.

Mr. Wollenhaupt: No, no, I think, I think that summarizes it. The, the proposed language is in exhibit one. Just one thing to remember is that it's easy to think this only affects Manele and the few relatively few residents that live in Manele, but it may, it will affect those families who do own shoreline properties on the north shore or the eastern shore. So this does affect everyone in the SMA. It's not just people who have large homes at Manele. So to think about everyone's affected if you're in the SMA, you need to follow the rules now. So that's, that is, that, that that's the comment to remember.

Mr. Dias: And if I, if I can -- sorry Kurt -- if I can add one more thing. I know Chair, you sent out like a, a basically written description of the SMA area on Lanai. In the chat I dropped -- hopefully it works -- it's a, it's a link to the SMA areas in Hawaii. I believe if you click on that, it will probably show Oahu first, but you can, you know, slide over to Lanai and then that will give you folks a visual of the SMA area on the island. Thank you Chair.

Mr. Gima: Yeah, I, I think Planning Department also corrected the link that I had on, on the sheet that I sent out. I think Leilani sent an email specific to the new, the new link. Is that the same one that that you just cited, Danny?

Mr. Dias: I, sorry, I'm not sure what Leilani sent, but, but yeah, I, if it was a GIS map of the SMA area I'm sure it's the same thing.

Mr. Gima: Okay. Let's see.

Mr. Wollenhaupt: Oh, just to make a short comment. Danny's is actually very visually oriented. The link that we got a corrected one on, though those are the distinct increases in boundary ranges, but the, so you need to put the two together. One shows how the boundary increased. The other is a visual representation of your island to really pinpoint those areas visually, so you need to look at both. Thank you.

Mr. Gima: Thanks, Kurt. Okay, so Commission, commissioners, the, the process would be in the event that we come up with an agreement on some, the proposed rule change for SMA minor, then it's basically instructing the Planning Department to then write it up and then schedule a public hearing. Is that accurate Planning Department?

Mr. Wollenhaupt: That's, that's accurate, but remember the Corporation Counsel will need to be writing the specific language which you need to consider that that can take some time. So it wouldn't be possible to get it like on the next meeting. That's just a consideration that the language would need to be drafted by the attorneys. And as it does affect your community, we want to make sure as many people knew about it as, as possible, I would hope that people that may not necessarily be in Manele would also be, be notified somehow that it would affect their own lands too. Thank you.

Mr. Gima: Okay, thanks Kurt. Commissioners, any questions or comments? And then I see Keiki-Pua in the chat wants to provide testimony. So questions, comments from the commissioners? Okay, go ahead, Nikki.

Ms. Alboro: Chair, can you just recap so that I'm understanding. So we're trying to get -- we already have exemptions, we already have majors, and we're trying to get minors as well?

Mr. Gima: Yes.

Ms. Alboro: And then this was, like the minors are like something simple as cutting a tree, correct? Or broken window or --? I mean, I'm just trying to see like what if there's no quorum. What if it gets pushed back a meeting? And you know like I'm just trying to figure out what it was behind this, why we, we wanted to get the minors, I can't remember.

Mr. Wollenhaupt: Well just, just to help you out, I'm, I, I'm sure that you will be someone on your committee can address your second question. But we have exemptions. Those activities which are not in development, that would be more of the cutting of a tree, the

replacement of a window, the replacement of like for like. There, there is a number of exemptions that are considered, well, indeed to be exemptions, not a development.

In order to have a minor permit, we then tend to look, we then look at the valuation. Again, 500,000, now up to 750,000 for an activity that now is considered a development, but that does not fall over that monetary threshold. So if we have a project that is a development, so it can't be deemed in an exemption, it's over 500,000, then that becomes a special management area major permit in which the neighbors are notified within 500 feet, there is a report prepared, and it's a relatively complex process. So we have the exemptions which are notified, they're not a development, they're relatively simple. That could be a subdivision of a lot into four lots, a repair, maintenance, the construction of a single-family dwelling that's not on the shoreline.

Then we move to our, developments of which are then composed of two different types, major and minor. The major obviously you're going to see, and now this evening you're talking about looking at those minor permits, valuation under 500 or 750 that that are considered development. So broken window, exemption, would have to go through the process of seeing it to the committee. So that just gives you a little bit of a background.

As to how your debate, that would be, one of your commissioners can speak to the history of how you got here if you wish to have that additional information. Thank you.

Mr. Gima: So yeah, Nikki, as I said earlier, part of part of the discussions from way back, you know, in 2008 up into current, there's been a number of several commissioners talking about the importance of, of home rule. I mean to, to go back way, way back in the early 90's when we did not have our own planning commission and there was a lot of discussion about home rule. That's why Mrs. . . . (inaudible) . . . worked at getting our own planning commission so that we can have a hand in decisions that are made about our, our island and its community. You know, prior to that, we were the Lanai Advisory Commission to the Maui Planning Commission. So that's one part of it.

The other part of it is like what I mentioned that had Erin had brought up is that the Planning Department, their kuleana up until, well, their responsibility was, is the, the SMA minor and their responsibility when they approve or disapprove an application is to let the Lanai Planning Commission know before its next meeting or at its next meeting. And there was an instance when they didn't do that. And so that was a contributing factor about why the planning commission was asking the Planning Department to come up with language, changing it from final authority to the Lanai Planning Commission. Lisa?

Ms. Grove: And just to make sure I'm a hundred percent clear on this. The incident in question was the gate at Hulopoe, right? It was considered a minor exemption, and it was not something that came before the Planning Commission. I also just want to reiterate that what you had said earlier Chair, that there are four or five of these. I mean they're over a span of years, there's been a less than a handful of these that would have come before us. Because at first I was very concerned about this being a little manini, right? Like a broken

urinal at the beach park and they have to come through this, but then the gate happened and that never came before us. And I personally am concerned about the fact that we didn't get a chance to weigh in on that and I think some of the other commissioners were as well. If what I just said is inaccurate, please correct the record, but I think that's where we are now.

Mr. Gima: Is, is that, was that the incident Erin?

Ms. Atacador: Yeah, definitely. That's kind of what triggered my question in looking into this a little bit more. And then I also just wanted to kind of just bring into the discussion too that all of these things, whether it's a, a major, or a minor, or an exception, exemption, excuse me, does have to be approved by, by someone, whether it's us or, or the Planning Department. And as we've seen tonight, the Planning Department as well as, is short staffed. So just, I mean, just as far as something getting done timely it's could be either way if you know we don't make quorum or a meeting is canceled, but it could also take a while with the Planning Department as well too. So with that thinking in mind, it's kind of as well why I am hoping that we could consider exemptions, majors, and minors coming to the plan, the Lanai Planning Commission because if it does have to get approved to fix the window or urinal is something regardless, I, I would prefer it come to the Lanai Planning Commission.

Mr. Gima: Okay, Manna, you have anything to add or ask?

Mr. Manna: No, I think everybody, I would be in agreement. And just for the record, we're just discussing what language we want to propose tonight, correct? Okay, thank you.

Mr. Gima: Okay, so if there are no other further question or comments, I'll, have Keiki-Pua wishing, she's wishing to testify on this item. Floor is yours.

Dr. Dancil: Thank you Commissioners for the opportunity. Thank you Commissioners for the opportunity to testify on this agenda Item D.1. status of the LPC SMA permit rule change proposals. I had the luxury of listening to the deliberations before testimony, so I just want to address some, some things. You guys brought up some really good points and as mentioned earlier by Chair Gima's question to Planner Wollenhaupt about how long, why did it take so long? And the Planning Department is short staffed.

And this is just an example. We have an application in for signs for a hiking trail to stay in the trail for danger. Because these trail signs are in the SMA area, they're on the north side of the island, just a trail sign, I need to apply for a special management area assessment. Which takes time to put the application together, which takes time for the planner to review them, which takes time for the planner to write the staff report, which takes time for that to be agendaized and then come before you. This would fall under an exemption which as Commissioner Alboro mentioned would come to you for approval of a sign, danger, stay on trail; five signs come before you as an exemption.

Somebody on kuleana property down on the windward coast at Keaaumoku, they have cut down a tree, change a window, same thing, they're supposed to apply for a special management area assessment, put all those documentations together, it's not insignificant amount of paperwork and maps and answering questions and application, submit it to the planning department and then gets assigned to a planner. Who knows where you fall in the mix. Who knows how long it will take. Then come before you.

So just want you to know there might be opportunity for you guys to consider some of these extension exemptions that you call out because do you really want to see every danger sign, stay on trail, broken window, cutting down a tree? Because those are all exemptions and will have to go through the process I just explained to you. Could take, we've seen these take between couple of months to two plus years. So I just want to provide that for context as an applicant that has gone through this process. We are professionals that put these together. To have a resident with a property do this on their own is significant.

Ms. Ramoran-Quemado: Thirty seconds.

Dr. Dancil: Thank you for your consideration of this proposed change. Mahalo.

Mr. Gima: Thanks for that context Keiki-Pua. Commissioners, questions, comments for Keiki-Pua? Erin?

Ms. Atacador: Thank you Chair. So Keiki-Pua, your, just, just from clarification from my understanding, so your exemptions need to be approved by either the Planning Department or the, or the Lanai Planning Commission. You're just, you, you, what you're saying is that looking at what qualifies as an exemption should be considered in redoing the, the language?

Dr. Dancil: Today an exemption, putting a sign-up saying danger, stay on trail, has to come to you. You're the decision-making authority for all exemptions, not the Planning Depart, Planning Department. It's you.

Ms. Atacador: Right.

Dr. Dancil: The Planning Department has to review it, write the staff report, and submit the application for your consideration of approval. So you're the final decision maker on that. That needs to get on the agenda. I'm saying, are there certain exemptions that you will allow for the Planning Department to say like this is a sign, this is the window, or something, like a list of something that qualify that don't need to come to you. They're still exemptions but they don't need to come to you. And maybe you guys agree on a list that you feel doesn't warrant a broken urinal. Does it need to come to you? A broken urinal is an exemption needs to come to you.

Ms. Atacador: Got it. Okay. Thank you for clarifying.

Dr. Dancil: You're welcome.

Mr. Wollenhaupt: Oh, this is the planner to, to help this discussion. We have special management area exemption list, Article A through V. Just to give you a little bit, exemptions can include a transfer of land title. They can include a creation or termination of easements, a routine repair maintenance or interior alteration. They can include a repair of maintenance of a road. They can include a non-structural improvement to an existing non-commercial or a commercial structure, trash removal. These are just some of the exemption categories that we look at when we get an exemption request. So, they certainly do have a variety of those which are minor to those which may have a bit more impact. So just letting you know that we do run off of a list of exemptions. Thank you.

Mr. Gima: Thanks. Manna and then Lisa.

Mr. Manna: Thank you Chair. My questions for Keiki-Pua. Just for clarification Keiki-Pua, are you not opposition, you, you're in support of changing the language for exemptions, but are you, how, what's your position on the minors? Are you in opposition of the Lanai Planning Commission taking final authority or are you fine with the Lanai Planning Commission reviewing the minors? Thank you.

Dr. Dancil: I'll take the first one. So on exemptions, I would like the Commission to consider giving the Planning Department final authority because those seem to be, and again, you guys can take a look at the list and if you don't feel like those things on the list are should be exemptions then take them off. But for a sign that says danger, stay on trail, or an arrow on a sign saying stay on trail, I have five signs right now that I need to come before you on. It's, we put it into and just a urinal, fixing a shower, things like that. Right now we do have a SMA minor permit because there's a bunch of different conditions for five years to do a whole bunch of things in Hulopoe and that's going to be just for five years. Should this pass, we're going to have to come before you again, you know, and asking for a urinal because it's an exemption. And you know there's just some things just common sense. I would hope that you should consider just because it takes five signs, it takes a professional, you know, couple days to put all the maps together to describe how it is compliant with the Maui Island Plan, with the Lanai Community Plan, talking about the flora and fauna impacts, talking about all of these different things together, it's not --. I mean, it's, it's not insignificant, and then the plan, you know, just, just use some common sense. I don't know. I just want you to consider that.

Mr. Manna: That's great. Thank you Keiki-Pua. Just, just go a little bit more in depth. Are there things on the exemption list that you would be fine with us reviewing and if, if, we were to say reduce the exemption list that we had reviewed over.

Dr. Dancil: I think that's the question.

Mr. Gima: Keiki-Pua, hold on, hold on a second. Manna, remember we're only talking about minor permits on this agenda item.

Mr. Manna: I understand. Thank you.

Mr. Gima: Go ahead, Keiki-Pua.

Dr. Dancil: Yes. I, I would think that you guys as a body should look at the exemptions and really think, do I really need to see this and or should this be considered a minor? Because that's what you're asking for. Or you want --. But right now, today an exemption goes to you. So that is actually a more laborious process than a minor.

Mr. Manna: Right. Yeah, I understand Keiki. What, well, I was just inquiring if there was some wiggle room with your opposition for us to review the, the exemptions. You know, because I would be willing to look at that list, but I feel like there's others that would say they want to review everything. But, if I was to take a look at the list and be more critical and say, yeah, these things kind of are larger issues, whereas these are more manini. I was just curious if you would --

Dr. Dancil: Yeah.

Mr. Manna: -- if you would be willing to accept that we review some, but then we discontinue review of others.

Dr. Dancil: I, yes, I would be open to that. Like a structure less than \$750,000, that's a new structure. But if it's fixing the roof on a structure or changing out a urinal or something that's less than 750,000 I guess is now the new law that just passed, you know things like that, I would hope you would consider --

Mr. Manna: Yes.

Dr. Dancil: -- the others.

Mr. Manna: Understood. And then verify, there is no opposition for minors going in front of the Lanai Planning Commission review?

Dr. Dancil: We actually are in opposition because it's one more step.

Mr. Manna: Okay.

Dr. Dancil: The way it's written now, it's just one more step. Planning Department has the expertise. I do understand that you guys want home rule of approving and there was an incident in which it didn't get agenda'd and informed to the Lanai Planning Commission. That's unfortunate that that's what triggered all of this, but --

Mr. Manna: Yeah.

Dr. Dancil: Yeah.

Mr. Manna: Okay, thank you very much for your clarification Keiki-Pua.

Dr. Dancil: You're welcome.

Mr. Gima: Okay, Lisa.

Ms. Grove: I apologize because I think mine is an exemption related question too, but I believe that I heard that on the trash removal site that like the extrication of abandoned cars and things like that if they're in the, in that area are also something that would require approval by the Lanai Planning Commission. Is that true?

Dr. Dancil: Depending, it just, if it's just removing them and you're disturbing brush and things like that and the magnitude. For example, we got a SMA minor for the removal of the cars because it was over a large period, and they put conditions on that. And it wasn't just the removal of cars, it was kind of cleaning up many of the sites over on the Keaauumoku coast. So there was multiple things, not just the removal of cars that compounded it to, it to be classified as a minor permit.

Ms. Grove: Okay, thank you.

Mr. Gima: While I still got you on screen, Keiki-Pua, can you summarize that permit that you guys got for the Hulopoe Beach Park? Because I know that took a long time after the flooding. Did you guys initially go in for a minor permit that covered an extended period of time, or did you go in for specific exemptions on the different things that you guys had to do in the beach park?

Dr. Dancil: So that one had initially went in with two tasks. The first task was the removal of trees and the raising of the sewer manhole. And that was because of the event that happened in July, the king tide event. That subsequently, after discussion, we were in the process of submitting one more which was the operation and maintenance of Hulopoe Beach Park because we learned that everything needed to go before it. It was a decision was made to put all together so that we're not segmenting all of these like, I mean it would have been a voluminous application for every single item that the Hulopoe Beach Park does just on operation and maintenance. And so that's what happened. It was, it was decided to go in that way. I think the delay on the review is, you know, unfortunate events of the just the short staffing, the fires, everything that's happened on Maui, and it just took as long as it did. Multiple people leaving the departments, retiring. I think we went through several different people looking at it.

Mr. Gima: So circling back. When you submitted the application, was it for a minor or was it for several exemptions?

Dr. Dancil: You don't submit --. You don't choose. The Planning Department decides. You submit what's called SMX and -- sorry, Planning Department if you want to step in -- but you submit an SMX, which is called a special management area assessment. And the Planning Department decides whether you are an exemption, a minor, or a major. They make that decision. We do not make that decision. We apply for an assessment.

Mr. Gima: And what decision was made by the Planning Department?

Dr. Dancil: A minor for that particular project. And that triggered other things because some things were in the shoreline area and some things were in flood zone AE, so it triggers a shoreline application as well as a flood permit. There's lot of different things that happen in the shoreline area on Hulopoe Beach Park. It's not, it's not an easy permitting area.

Mr. Gima: But to recap, the, the minor permit with the extended period of time worked out for Pulama in that you could do all the small maintenance kind of stuff without going in for another permit. Is that accurate?

Dr. Dancil: That is beneficial so I'm not submitting a permit every week.

Mr. Gima: Okay, thank you. Danny, were you going to chime in?

Mr. Dias: Yeah, just, just feeding off of Keiki-Pua. Good discussion by the way. We appreciate this. So yeah, yeah, Keiki-Pua is correct. Obviously, for certain projects, it's going to be a SMA major permit that is automatically going to come before the commission. For smaller types of projects, as Keiki-Pua stated, applicants will apply for a quote SMX permit. The department receives it, planner reviews it, and basically if can go usually two tracks. One, it could be a major. Sometimes people apply for something where like there's no way we can administratively approve this. This is something that has to go to commission for our public hearing.

But normally it's going to be either an exemption or an SMA minor. So for exemptions, Chapter 243. I'm sorry. Chapter 205A, of the Hawaii Revised Statutes, it gives a list of things that are exemptions. And I'm not going to read everything, but I'll just read some of it. So what can be an exemption is like repair, maintenance, or interior alterations to existing structures. So if somebody has a house, they want to change their cabinets, we would issue an exemption for that. Also included is like installation of underground utility lines and a pertinent above ground fixtures less than four feet in height along existing corridors. So, you know, those are things that we would do for like say a State DOT project. There's also non-structural improvements to existing commercial or non-commercial structures, construction, installation, maintenance repair, and replacement of emergency management warning or signal devices and sirens. So there there's a, a bunch of things. I want to say it's about maybe 15 or 16 items that State Law considers exemptions, and exemption meaning that the SMA rules don't apply to it. So that's one track that projects can go under and according to the Lanai Planning Commission rules, we bring that before you. We can't issue the exemption ourselves.

The other, other category are minor permits. So if it doesn't follow into the list of exemptions in the HRS, then it's going to be either a minor permit, and that's where the dollar threshold comes in, right? So if we can't exempt it, then it needs either a SMA major or a SMA minor. To be a SMA minor, it has to be under, up to this point under \$500,000. And then in the near future \$750,000. The advantage of SMA minors is that we can issue conditions, right? Because we can't put a condition on an exemption because State Law is saying SMA law doesn't apply.

So I hope that kind of clarifies the differences. Just my own personal thoughts, and of course this is up to the commission where you want to go with it, but I do sort of agree with Keiki-Pua. I know she's saying none of this, well SMA minors and exemptions shouldn't come to commission because it does add time, etcetera. But generally speaking, like the Lanai Planning Commission, they review minors because that's not exempt under State Law and they can add conditions, but they give the authority to the Planning Department for exemptions. So hopefully that add some context to this . . . (inaudible) . . .

Ms. Grove: Can I ask another question if you don't mind, which is, because it's State Law, do we have any wiggle room on the either \$500,000 or \$750,000 threshold? Could we set our own limits?

Mr. Dias: No. Oh, well, that's a Corp Counsel question. I don't think so, but I'll let Corp --

Ms. Grove: Okay so like if we wanted to say maybe 500 is a lot, you know, could we do 250 or something like that or because it's, it's Statute, we don't have the authority to do that.

Mr. Reifsnyder: Excuse me. Hi, I'm sorry so your, can you repeat your question?

Ms. Grove: Yeah, so the, right now the threshold is \$500,000. It may be \$750,000 pending legislation or the Governor's approval. My question is, would there be, and I'm just asking hypothetically at this point, but would there be an opportunity for us to say \$500,000 is pretty high. You know, maybe it's \$250,000 or some other dollar figure that's lower than the 500 or the 750? Or is it because it's State Statute that would override any kind of changes we would make as a commission on . . . (inaudible) . . .

Mr. Reifsnyder: Yeah, I think, I think because it's its State that it would override, but I, yeah, because you would be, you'd be restricting or widening, I guess the restrictions with your, your proposed change? If you're restrict, if you're, yeah, if you're restricting it, you, you can actually do that. If you're widening it, then that would be going against State law, yeah. not. So I guess it would come down to what your interpretation, would it be to restrict, would you be, yeah, would you be creating a smaller scope or a wider scope, I guess if that makes more sense?

Mr. Gima: . . . (inaudible) . . .

Mr. Reifsnnyder: So I'm not entirely sure how it would be interpreted, yeah, but, but that would be the question that you'd have to ask.

Mr. Gima: Lisa, no matter --. I mean if, if we, if the planning commission takes on the minor permits, it doesn't matter what the threshold is because if exceeds the threshold, it goes to a major and that's our kuleana.

Ms. Grove: Right.

Mr. Gima: Is that accurate to Adrian?

Mr. Reifsnnyder: Yep, yep exactly. Okay.

Mr. Gima: We want to keep in mind, I, I, I have a hard time remembering when the last SMA exemption came before the LPC. Planning Department, can you refresh my memory, our memory?

Mr. Dias: I, I would have to, to look, but just off the top of my head, I think the last exemption was some interior modifications to like the Four Seasons Resort. I want to say that was like maybe four or five months ago.

Ms. Grove: Yeah, the restaurant. Wasn't it the changes at the rest, the restaurant at the Four Seasons?

Mr. Dias: That's correct. Yes.

Mr. Gima: I guess the point I was trying to make and, and, I, I, and I understand Keiki-Pua and Danny's point is we have not been inundated with exemption, SMA exemptions. We have not been inundated with SMA minors. And keeping, keep in mind that enforcement is based on its, complaint driven. So if, if there's a project district homeowner that's doing major renovations and they don't submit an application, nothing really happens unless someone complains about it. Is that, is that accurate, Kurt? Danny?

Mr. Wollenhaupt: I would say that's accurate. You know, I, I'm sure that this weekend in Kihei, there's in, in the vast number of homes that are in the SMA, I am quite sure that there's a few trucks coming from Lowe's with a new toilet and a new doorknob and a new fencing, and that's all going to be done this weekend or whenever. That's, that's the reality we, we need to understand, not everybody is going to come. You know, if they, if they have to pay \$206 for a repair that costs \$50, there's not a great incentive to come and get a SMA for something that obviously is not affecting. It's not affecting the SMA environment, replacing a doorknob.

Mr. Gima: Yeah, and, and as one of you from the Planning Department mentioned earlier, when and if it goes to a public hearing for this rule change, then the, the community will have an opportunity to, to testify.

Mr. Manna: Chair, may I ask a question?

Mr. Gima: Go ahead Manna.

Mr. Manna: Yes, so Chair, do you think it's probable or possible that the reason why we haven't had exemptions is because it's, you know, a large amount of work for a small reward? Is that's possible? Is it possible that's the reason why we haven't seen exemptions?

Mr. Gima: Oh, I'm, I'm sure there are some people who are supposed to get an exemption.

Mr. Manna: Ah, okay. Thank you.

Mr. Gima: So, any further comments or questions? I'm going to read some proposed language. Okay, so in the packet where the Planning Department proposes new language, down under B, commission, commission shall make a determination and notify the applicant in writing within 30 calendar days after the application is reviewed by the commission that the proposed action, and I, we're proposing that you scratch out is, the word is. So that it would read the commission that the proposed action either, colon, and then number one, the new language would be falls within the definition of a minor action pursuant to 205A-22. Or number two, cross out not able to replace, replace it with cannot, so that it will read, cannot be reviewed as a minor permit.

Mr. Wollenhaupt: I'm going to presume that once you get the language agreed upon that you'll be sending a Word document to Danny or someone. We didn't, I didn't get all that.

Mr. Gima: Yeah, I can do that. I can do that.

Mr. Wollenhaupt: Thank you.

Mr. Gima: Any questions or comments about that proposed change to the Planning Department's language? Okay, anything commissioners want to further add to the proposed language or remove from the proposed language that the Planning Department provided? Or any input in terms of your either support or your reservations about the planning commission taking on minor permits with us being the final authority?

Ms. Grove: I just want to say I'm still pretty undecided or a little bit torn on this one.

Mr. Gima: On, on us being final authority on, on minor permits?

Ms. Grove: Yes. I'm happy -- I think the discussion is warranted and I think input from the community is very, very helpful. Moving it forward, I just want to be clear doesn't, isn't an indication of my tacit approval of this because I'm still trying to, to weigh it out.

Mr. Gima: Well, we wouldn't be approving the language. We'd just be approving --

Ms. Grove: Correct. I'm just saying that if I say like I'm approving the, them to move forward doesn't necessarily mean that I support us going ahead with it. I can support the discussion around it. And I'm not, I'm not a no. I'm also just not a yes at this point.

Mr. Gima: Correct, because your, your final decision will come at the public hearing. Nikki, Erin, Manna, any further thoughts, questions?

Ms. Alboro: I have question.

Ms. Atacador: Ah, . . . (inaudible) . . .

Mr. Gima: Okay Nikki.

Ms. Alboro: So, in the packet under letter D where it says if the commission does not make a determination and notify the applicant in writing within 60 calendar days as provided by subsection B, the proposed action shall be deemed approved with a minor permit. So whose responsibility is that to send it in writing? Chair or is that coming from the County?

Mr. Gima: I think after --

Mr. Dias: That would be coming --

Mr. Gima: Oh --

Mr. Dias: Sorry.

Mr. Gima: Go ahead Danny.

Mr. Dias: Generally that would be coming from us, yeah, the Department.

Ms. Alboro: I just wanted to clarify that because I'm, I'm just worried if I have to be Chair one day, so yeah. That's a lot of responsibility. So it's coming from County. Got it.

Mr. Gima: So Danny, it will be the Planning Department's responsibility once the planning commission decides on the application.

Mr. Dias: That's correct. The planner assigned to the project would, would have to, yeah, know the deadlines etcetera. Can I get that . . . (inaudible) . . .

Ms. Alboro: . . . (inaudible) . . . verbiage be in there somewhere or is that not needed?

Mr. Gima: Wait, say again Nikki.

Ms. Alboro: Sorry?

Mr. Gima: Can you say that again?

Ms. Alboro: Should that words be added in there if, if the Maui County Planning Department does not notify you within so many days? I mean it just, it just puts a lot of pressure on commission, you know, like, it's, yeah. I think it's just our responsibility to meet and make the determination, but the applicant should know that the notification comes from the Planning Department.

Ms. Grove: I think that's a good clarification.

Mr. Gima: So Nikki, you're suggesting that specific language be placed in there to provide clarification?

Ms. Alboro: Yeah, and in somewhat kind of reword it and say if the applicant is not notified in writing within 60 calendar days by the Planning Department. Like, just drop commission all in general. I think it's just our duty to meet in a timely manner to make a decision.

Mr. Gima: Good point, good point.

Mr. Wollenhaupt: Just, just to let you know that this language is coming also --. This language is what you do with exemptions. So I don't know whether or not you want to open this discussion. Because again, you're not voting tonight. This is a discussion. If you want to have a discussion on exemption language, because if you have concerns about this language, it's already in your rules under exemptions, so just letting you know that there's tie ins between these two.

Ms. Alboro: Kurt, what about majors? Is this the same language?

Mr. Wollenhaupt: Oh, majors is a whole, that's a whole, that's a whole different process. Yeah, that, that --

Mr. Dias: But it --. Yeah I, I believe it is. So there's sort of like the, in, you know, unwritten understanding that, you know, the department works on behalf of the commission. So when it says the commission shall notify, you know, we as a department know that you folks aren't going to have to, after this meeting will crank up a letter. You know, we do that on your behalf. So this this language is, is pretty common across the various rules for, for the three commissions in Maui County.

Ms. Alboro: I, I totally understand that, but just to, like, avoid the same scenario that happened where, you know, like, we weren't apparently we weren't advised of the gate, so it came back on the commission. So, you know, I just want to like kind of clarify that, you know, notification of all that stuff comes from the Planning Department. So they can't come back and be like, oh, the planning commission didn't let me know about this or the planning commission didn't post this, or I was not aware from anything from the planning commission.

Because it doesn't say anything in here that it's coming from the County Planning Department.

Mr. Dias: Just, just throwing this out here, Kurt, let me know what you think about this. What, what if we just, you know, struct the language, and notify the applicant in writing?

Mr. Wollenhaupt: So, so in exemptions you do have the same language. If the commission does not make a determination, notify the applicant within 60 calendar days as provided in subsection B, the proposed actually deemed exempt. So I think you want consistency. So again this discussion while it's limited tonight to minors perhaps there's some merit to have another discussion that maybe cleans up both sets of languages of the exemptions and the minors. Like Danny was saying if just the applicant is not notified, so we don't really want to make --. The more complicated the different processes be higher the possibility of an error that may occur. But I know you're only talking about minors tonight.

Mr. Dias: Kurt, just for clarification. So for the exemptions, it also includes the words, and notify the applicant in writing?

Mr. Wollenhaupt: Let's take a look here. Yes, it does. Yes, and notify the applicant in writing within 60 calendar, yes. That's why that language was used to try to make consistency across permits so that, okay, for we have to, okay, we notify within 60 days here, but now on this one we got to remember that we don't, but we --. It gets complicated to try to remember all the idiosyncrasies of each permit then.

Mr. Gima: Well, if we, if the planning, planning commission makes the determination, we have a 30-day window. But there's a 30-day window to notify the applicant. If we don't make a determination, then there's a 60-day window to notify the applicant. Is that accurate?

Mr. Dias: Yes, I would say in general, yes, that's correct.

Mr. Gima: Okay, and so, and so in both, in both instances, Danny, you're saying the Planning Department is responsible to notify the applicant, in writing?

Mr. Dias: That's, that's correct. You know, with all our boards and commissions, you know, the main focus is that you folks, you know, have your meetings, have your discussion etcetera, but as far as like the follow up and the noticing and the letters and all that, that's something that staff does. But, but I do see your, your point, Vice Chair, because yeah, you know, people get really technical, right? I mean, they, you guys can make a decision, and they go, oh, well, I got my letter 61 days after, so therefore.

Ms. Alboro: And it's . . . (inaudible) . . .

Mr. Wollenhaupt: I think part of this process . . . (inaudible) . . .

Ms. Alboro: . . . (inaudible) . . . and D, it says it twice, you know, that the commission shall determine and notify the applicant in writing that's letter B. And then in letter D, if the commission does not make any determination and notify the applicant in writing. So twice it's listing the commission is responsible. It's like the commission is responsible for the notification.

Mr. Wollenhaupt: Well, you're responsible for making a determination because we don't want someone hanging out there for months and months and months, so this gets the clock moving. I think that the main part of that sentence is if commission does not make, that if they don't act, I think the notification in writing that could be modified. But it's if months go by and you just, you just defer and defer and defer, well, you got 60 days to make that decision. Yes, it's either an up or a down vote. That's, I think, the point of what we're trying to get here. We don't want the applicant to be -- these are the rules we need to get it done, this is the answer. So, and I think the notification to the applicant in writing, that's, that's just a, it's a formalization that you're not just calling them on the phone, oh, by the way, this passed. So the primary importance is this making a determination, and that does have to come either from the commission that you either do or you don't make a determination.

Mr. Gima: So, I'm trying to, I'm just thinking out loud here. An applicant submits a SMX or an assessment. Planning Department determines it's a minor permit. It comes before the planning commission. We deliberate, we make a decision, and whether it's approved or if it's disapproved, then the Planning Department notifies the applicant.

Mr. Dias: Yeah according to these rules, that's . . . (inaudible) . . .

Mr. Wollenhaupt: I mean you could do something that the, the commission makes a determination, and the Planning Department notifies the applicant.

Mr. Gima: Okay.

Mr. Wollenhaupt: You could do something like that. Then you would have or if the commission does not make a determination and the Planning Department fails to notify the applicant in writing with the 60 calendar days, the proposed action shall be deemed approved. You could do something like that.

Ms. Alboro: I would agree to that. I just would like to relieve or, you know, remove because it's just one long, it just, it's just running, so it just specifically says the commission. It doesn't say that the Planning Department is involved in any way. So just for liability or, you know, releasing the, us, us, as Commissioners, from any retaliation. I, I mean, I don't know, I mean I guess it's always a possibility, but, you know, it's like if the Planning Department is short staffed and say the letter didn't go out till 62 days later, but then it comes back on the commission and be like, oh crap, you know, that's -- I'm just trying to get that part clarified that the notification comes from the Planning Department, not the commission. So I agree what you said that, that last, that last sentence you said about how to revise it. I just want to take that out that it does not come, the, the notification does not come from the commission.

Mr. Dias: And you know, I, I would default it further, it --. Sorry.

Mr. Reifsnyder: Oh, no, go ahead. I was just going to say --

Mr. Dias: . . . (inaudible) . . . just take out.

Mr. Gima: Go ahead Danny. Go ahead Danny.

Mr. Reifsnyder: Let's say the, the exemption or sorry, the default of the exemption being approved is already in, in the bylaws.

Mr. Gima: Wait, would say that again, Adrian.

Mr. Reifsnyder: I believe you were, you were talking about there being a solution about if it goes, if it defaults or if there's no determination or no notification to applicant in 60 days that it does default as is as an approval, as an exemption. You were talking about the, the special management area exemption, correct?

Mr. Gima: No, special management . . . (inaudible) . . .

Ms. Alboro: The minor.

Mr. Reifsnyder: Oh, the minor. Excuse me.

Ms. Alboro: This one, this one on the agenda.

Mr. Wollenhaupt: But the exemption language is correct. If, if nothing happens in 60 days, then -- that's where we got this language is from the exemption language. So my point is it would be nice to have the two mesh so we wouldn't be getting confused as to the proper procedure which opens the discussion up to both exemptions and minors, which may open up to a limited list of certain activities which you would be comfortable having the Planning Department approve should you want to go down that line. I know that that that pathway has been discussed both pro and con, but we have an opportunity here if we're going to notify all these people to look at this perhaps from the exemption and the minor permit.

Ms. Alboro: But I think the exemption is, correct me if I'm wrong, but, the, I'm sorry, the minor is a significant dollar amount, so it's more than an improvement or whatnot. It could be, you know, like a building of a house or an extension of a house on the, one the shoreline, so that's where I think it differs. Like I get what you're saying that you want to have it, you know, unified, but I think it's two totally separate because like then the major should be the same language, but it's not.

Mr. Wollenhaupt: I think that where the minors come into play is that you can put conditions on. You, when you, when you will review an exemption you will not be able to put conditions

on. It's either an up or a down. Minors, you can put conditions on. So the dollar amounts not always -- it, it could be a, it could be a historic, very close to a historic area, but a very small dollar amount. So you may want to move that to a minor because there's the risk of flood, there's a risk of something, so anyway that that's just a comment on . . . (inaudible) . . .

Ms. Alboro: But you guys determine that, right? Not us. We don't determine if it's an exemption or a minor. That would come from the Planning Department, right?

Mr. Wollenhaupt: And then I guess if you get the exemption and you think you want to put conditions on then you're going to deny the exemption and send it back to say this is a minor, and then we will process it as a minor because you want conditions on it. So you'll, we will determine if it's a minor, we would write the report, or exemption, write the report, you will see it as an exemption. But you have a, you have a, you can accept that and then you'd go through this process of allowing the exemption, notifying the applicant or you can say no, it needs to be processed as a minor. No, it needs to be processed as a major. So you're going to have that ability to move an exemption to a higher level to the minor if you wish to put a permit on.

Mr. Gima: Okay, let me jump, let me jump in here. I think we're contaminating two issues. So going back to your original point, Nikki, you, you had concerns, you wanted to make sure the language says that it's the Planning Department's responsibility to notify the applicant, whether it was approved or not, not discussed or determined. Okay, so we, that, that's one issue.

The second one is, is what Kurt brought up and you, you had a good question, you had a good question that before a minor permit comes to the planning commission, the Planning Department is the one that determines whether it's a minor permit or not. So we wouldn't, planning – you, you're asking the planning commission doesn't make that determination, the Planning Department does. Is that accurate Nikki?

Ms. Alboro: Correct. And then what he's saying is like it, you know, it's like a catch 22, it's, like, so if you come in as an exemption, but we think, but or maybe we don't know all the facts or you know like it's just okay it's coming in as just an example, a broken urinal, but then we don't know that they have to dig up all the lines underneath and replace all the plumbing and whatnot, and it comes out to 250, but we had already said yes to an exemption. So now that kind of makes me wonder like should, should we revisit all the language? I mean, like, there's just so many things coming to my brain right now, but I just want, my main concern is to remove the language that the commission is responsible for notification.

Mr. Gima: And I think I heard Danny saying that that's no problem to, to adjust the, the wording to reflect that.

Mr. Dias: Yeah, that's correct. We can adjust the wording. I would even . . . (inaudible) . . . for the notification in writing because, you know, to be honest, like a lot of these requirements

were from, you know, 20, 30 years ago when you couldn't just join online and watch the meeting. You know, to me, it's like if you have a permit before the commission, you should know whether what the commission did with it, you know. You don't necessarily need the department to go, oh, by the way, this is what happened. And unfortunately, you know, you have some bad actors out there and they will use that, right? And they will say, okay, we know the commission voted say no, but you know a letter came in 61 days, so I'm automatically approved. So I, I would propose we just take out the, the notification in writing.

Mr. Gima: Can you live with that, Nikki?

Ms. Alboro: Yeah, that's perfect. That's great Danny. Thank you.

Mr. Gima: Okay, so moving on, is, is this a deal breaker for anyone to move this to a public hearing once we get the, the proposed language set? Is this a deal breaker for anybody? Okay.

Ms. Alboro: In terms of what. Sorry, deal breaker meaning what?

Mr. Gima: Meaning, meaning, you totally disagree with the planning commission taking on minor permits, so I'm going to vote no and not let this move forward to even consider proposed language changes.

Ms. Alboro: Ah --

Mr. Gima: Because we need, we need five, we need five votes tonight in order to move this forward to look at proposed language changes in a public hearing.

Ms. Alboro: So tonight's vote would just be for the language, though, right?

Mr. Gima: Wait, wait. Hold on. Is, is that accurate Adrian? We need five, we need five votes to move this forward to a public hearing on a proposed language changes for the SMA minor permit. Is that accurate?

Mr. Reifsnyder: Correct, Chair.

Mr. Gima: Okay, so that's why I said if there is this a deal breaker for anybody? If it's not a deal breaker, then yeah, we can move on in, in massaging the language a little bit more. Okay, so I don't see any deal breaker hands going up. Okay. So Nikki is satisfied with the adjustments Danny was making. I think, I think I may pull back on the proposed language that I offered earlier because it seems inconsistent with what we're talking about. Because basically like Nikki said, the Planning Department will determine whether it's what comes before us is a major, minor, or, or exemption. We, we wouldn't, the planning commission wouldn't make that decision. Is that accurate Danny?

Mr. Dias: Um, so when the SMX --. Okay, I, I hope I understood your question. So when the SMA permit comes in, the department reviews what they're proposing on using and we basically look at what Chapter 205A of the Hawaii Revised Statutes state are quote exemptions, and if we say okay, yeah, this is an exemption, then that's what we would put forward to you. If it's not included in the exemption list, then we would say, well, Chapter 205A doesn't consider this an exemption so then it would have to be either a minor permit. And then of course if the dollar threshold is over, you know, \$750,000, then it would be a SMA major.

Mr. Gima: Okay, so that that confirms what I, what I just said. Manna, did you have your hand up? No, okay.

Mr. Dias: Sorry, Chair, can I ask clarification real quick? I know you had some proposed language earlier, and then we basically asked you to send it to us. So what you're stating now is, is you're going to revise that or rethink some of that.

Mr. Gima: Yeah, because the, the revised language is stating that the planning commission would, would make that determination when in fact, no, we do not make that determination, the planning department does.

Mr. Dias: Okay.

Mr. Gima: We just, we just --

Mr. Dias: Okay, understood.

Mr. Gima: We just would deliberate on whether it's a major, minor, or an exemption.

Mr. Dias: Okay, thank you.

Mr. Gima: Okay.

Mr. Wollenhaupt: So your proposal is in B that commission shall make a determination after the application is reviewed by the commission that the proposed action and then the languages as we had before, striking and notify the applicant in writing? Is that what you're proposing?

Mr. Gima: Ah, can you, can you say that again? I'm not following you.

Mr. Wollenhaupt: The applicant, the commission shall make a determination after the application is reviewed by the commission that the proposed action is, so you strike and notify the applicant in writing within 30 calendar days.

Ms. Alboro: Yes, and when they apply for their permit, they will already be notified that they will get an answer within 30 days from the department. I just want to make sure that they

understand that it's coming from the Planning Department. So say they not, they're, they're not in attendance of the planning commission meeting, which they should be, but anyway, if they're not, how would they be notified, how many, you know, how would they know who's, what letter, or what envelope to look for? Planning commission or planning department?

Mr. Wollenhaupt: Well, I guess my question, do we want 30 days or do we. . . . (inaudible) . . . ? The commission just has to make the determination.

Mr. Dias: Yeah, Kurt, I believe that's what we discussed earlier that we would strike the words, and notify the applicant in writing, and just leave it up to the commission to make a determination.

Mr. Wollenhaupt: So we keep the within 30 days. Just strike what you said. Okay. So the commission shall make a determination within 30 days, calendar days, after the applicant has reviewed.

Ms. Grove: And what happens if we don't have quorum?

Mr. Gima: We can't decide.

Mr. Wollenhaupt: Well, you're making the decision, after 30 days after you've reviewed. So if you don't have quorum, the commission shall make a determination within 30 days after you've reviewed it. So it could take six months before it comes from the planning department and gets agendized.

Ms. Grove: Okay, thank you.

Mr. Wollenhaupt: So that's not an issue at this point.

Ms. Grove: Okay, thanks.

Mr. Wollenhaupt: Yep.

Ms. Grove: I missed that language. Thank you.

Mr. Gima: So I think, yeah, this has to be reworded to make it real clear that when the SMX comes to the Planning Department, the Planning Department makes the determination. Period. Once the determination is made, whether it's a major, minor, or exemption, then it goes to the planning commission where we review and then we either approve or deny, period. Then the Planning Department will notify the applicant of the decision by the planning commission. Does that make sense?

Mr. Wollenhaupt: Then you look, then you looked at part C, applications determined not applicable to be reviewed as a minor shall be transmitted to the Director, and the Director will now decide, okay, this is going to be a major, an emergency, an exemption. So it will be

up to the Director then to make the, if you say this is not a minor, can't be reviewed, that's your determination, or yes, it's okay. If you say no, it can't be a minor . . . (inaudible) . . .

Mr. Gima: Kurt? Kurt, Kurt before it even comes to us you guys are going to make the determination whether it's a major, minor, or an exemption.

Mr. Wollenhaupt: That's true, but --

Mr. Gima: Once you guys, once you guys make that decision, then you send it to us. We just approve or deny.

Mr. Wollenhaupt: But you have an option that it can't be reviewed as a minor. So then if you're denying that, then we will make, the Director makes the decision where it goes.

Mr. Gima: No, no. If, if we, if the planning commission has a final authority on the minor permit, and a minor permit comes to us, we review it, we either approve it or deny it.

Mr. Wollenhaupt: Well according to this language, you also have the second choice, not able to be reviewed as a minor. You're not, you're not approving it, you're not denying, you say, we, we can't, we can't approve this as a minor. That, that's, it's, it's, it's, we can't figure it out, no. And that, that, that's what, that's what is allowed here. You, yes, you can approve or deny, but you also have the opportunity that you're just not able to be reviewed as a minor permit. So if you're telling the applicant, we were not approving it, we're not denying it, we can't, we can't make that determination. So we're saying it can't be reviewed as a minor, then we move to part C, and we're going to have the Director decide how it needs to be processed.

Mr. Gima: Well, if we dis, if we --. Okay, go ahead Erin.

Ms. Atacador: So I guess the confusion on that, that option is, is why wouldn't we be able to decide if it's a minor or not, if you've already reviewed it and are giving it to us as a minor? Like what, why would we disagree with your decision on making it a minor when there's stipulations of what qualifies as an exemption, a minor, and a major?

Mr. Wollenhaupt: I'm just taking what the, how the exemption process works. I'm not saying that that was the right process or the right language of the exemption. We were simply trying to make it consistent. So you're free to make any, any language that you feel is more appropriate. That's why we're having this good discussion.

Mr. Dias: So I think, if Kurt, if you took that language from the exemptions, I, I guess that kind of makes sense because you know exemptions, for lack of a better way of saying it is sort of like your lowest tier, right? So if, the commission determined it not to be an exemption then it would automatically get bumped up to either a minor or a major. In this case, if the commission determined that it cannot be or, or should not be reviewed as a minor permit, my assumption is then, you know, the commission will want it to be a major and not an

exemption, right? I, I, I can't, like if the department said, yeah, this is this is not an exempt item, this is a minor permit. I, I don't really foresee that the commission being, like, oh no, no, no, this is actually an exemption. I think the department would have already made that determination. But so, so maybe an idea would be if we take out item C, the entire thing.

Mr. Wollenhaupt: Right, you take out two and you take out C. You just review and a decision of approval . . . (inaudible) . . . minor permit.

Mr. Gima: Yep. Yes.

Mr. Wollenhaupt: Then all that other stuff goes away.

Mr. Gima: Yes.

Mr. Wollenhaupt: That's, that's good. Making good progress.

Mr. Manna: Yeah, I'd just like, Chair, I'd like to thank you Kurt for your foresight on that.

Mr. Wollenhaupt: That's good when we can have this, this discussion because we, we learn so much from different points of view. So thanks for putting up in my questions.

Mr. Gima: Okay, so applicant applies, they get the SMX like Keiki-Pua said. Planning Department makes the determination major, minor or exemption. Comes to the planning, planning commission. We review, we approve or deny, and that decision gets to the applicant by the Planning Department. Does that flow chart, does that flow chart look good?

Ms. Alboro: Sorry, Kurt had mentioned that you could also, like, just to cover bases, approve with recommendation. Is that, does that need to be added in the flow chart or you know like if something needed, like, we approve it only if you change or, you know, like, if we find something that they missed in so many words, like you can change the url but make sure you list you're changing the handle too or something like that. You know what I mean? Just to make sure all the bases are covered, so with recommendation. Is that an option?

Mr. Dias: Again, that's part of the approval. The approval would be based on, you know, yeah, you, the, the applicant satisfying you folks.

Mr. Gima: So major . . . (inaudible) . . .

Mr. Wollenhaupt: That's the thing with the minor permit is you can add conditions, so that would be, that would be your opportunity with this process now to custom tailor a project that you believe would be better off with some of your conditions.

Ms. Alboro: Thank you. Conditions was the word not recommendations, thank you.

Ms. Grove: And just so I'm super clear, the conditions can be case by case, correct?

Mr. Wollenhaupt: Oh, yes, yes.

Ms. Grove: I just want to be clear.

Mr. Dias: Yeah, generally our SMA minor permits will have standard conditions, you know, when you need to initiate construction, the amount of time you have to complete the project, best management practices, but yeah, you can always add project specific conditions.

Mr. Gima: So the tentative massaging of the proposed language we have in our packet includes A, B, and B1. Everything else is gone. Is that, is that what you said Kurt?

Mr. Wollenhaupt: I'm not sure what the changes were for A.

Mr. Gima: Ah, I don't think there were any proposed changes.

Mr. Wollenhaupt: Okay, then we go to B, the commission shall make a determination within 30 calendar days after the application is reviewed. So that language, by the commission that the proposed action is, then either comes out, we say for just one, review and the decision of approval or deny the minor permit. Stop. Then cancel out two, cancel out C, go to D, and say if the commission does not make a determination within 60 calendar days as provided in subsection B the proposed action shall be deemed approved with a minor permit. That's what I have at the moment.

Ms. Grove: I thought we had different changes to B, but I could be wrong. I thought we said the commission shall make a determination after review and then we were going to keep the 30 days but –

Mr. Wollenhaupt: Oh, no . . . (inaudible) . . .

Ms. Grove: I thought Danny had made an iteration.

Mr. Wollenhaupt: . . . (inaudible) . . . that the commission shall, the commission shall make a determination within 30 calendar days after the application is reviewed by the commission that the proposed action is reviewed and a decision of approval or denial made with a minor permit. So, we were keeping in that you, a decision, a determination has to be made within 30 days after the application is reviewed by the commission. So that, that's left in. Yeah.

Mr. Gima: Yeah, I think there's some wordsmithing that needs to go on, but I think conceptually we're all in agreement with, with that.

Mr. Wollenhaupt: So the question would be, would you want another discussion session like this to see the language before you move it into the full public hearing notified. It might merit another review at this level before you go full out with the public hearing, but that's up to you, of course.

Mr. Gima: Um --

Ms. Atacador: Can I ask a question, Chair?

Mr. Gima: Go ahead.

Ms. Atacador: So if we were to put it, put this language out to the community, get testimony, could we, when we vote, could we make another, any more, any more changes based on what the, the testimony from the --? Because I'm actually a little bit okay with putting it out rough to see what our community members, how they feel and how they would, you know? We don't necessarily need to give it a like exact fine tooth everything tonight if we're going to put it to the community. They might have better ideas or better way to put it than we would. So and then go, go from there after hearing testimony. That, that's, that's kind of my how I'm feeling right now.

Mr. Gima: I tend to agree with you, Erin. Go ahead Nikki.

Ms. Alboro: I just want to remove that the commission is responsible. I think that is something that I'm against having that listed that we are the responsible people to give the written notice. That can come back and bite you. I mean, it's simple. Just take it out. We don't even have to put the Planning Department. All the other wording is fine, but I would oppose putting it out there as is.

Mr. Dias: Okay, we'll, we'll revise it to take out that language.

Ms. Atacador: Yeah, sorry, I was meaning the, the last thing that we were, we kind of went over and we're saying that that version would be the one I would put out, not the one that's typed out in front of us. It would be the one we kind of work, worked through tonight.

Ms. Alboro: Yeah, definitely, yeah, I would agree to that one, but not this one in the packet.

Mr. Gima: So what I heard earlier from Planning Department staff is even if we agreed on proposed language for SMA minor permit, more than likely it would not be on the agenda for the June meeting. Is that, is that what you, that's what you earlier, right?

Mr. Wollenhaupt: Oh, we don't have time for --. We have a 30-day public hearing notice. First off, it's the Planning Department that's going to have to come up, if we're going to notify everyone that's affected, which could be all the property owners having a property in the SMA. And those, at least from Maui's perspective, those are sent certified mail, so that could be hundreds. So plus we have the 30, the, the hearing notice in the newspaper, the staff report that will have to be written. So there, there are some, we, we need to work through the notification timeline and to see what's really required.

It was quite an extensive process when Maui had to notify every single property owner in the SMA by certified mail. So someone's going to have to come up with all those note letters, envelopes, green cards. So no, I don't think a month is going to work on that.

Ms. Grove: Can I ask another clarifying question, and I apologize because I, I think you may have said this earlier, but does it now go to Corporation Counsel, to do more drafting? Because I agree with Erin that it would be great to take it and, and talk to the community, but if there's sort of one more layer of language that may change because of Corporation Counsel, I may want to think about us taking another look at it.

Mr. Dias: Yeah, Corp Counsel can chime in, but I think what we would do is have the public hearing because if we send it to Corporation Counsel, you know, they would have like strict legal language. I think we'd rather have the public hearing because then it might change and then once the commission actually votes on it and then, then we would send that for legal review.

Ms. Grove: Perfect. Thank you Danny.

Mr. Reifsnyder: Yeah, we can, we can, we can help with part of the drafting for sure. But yeah, probably best to get public input before we, before our Corp Counsel gets too involved.

Mr. Gima: So given, given what Kurt said in terms of what responsibilities the Planning Department has, maybe we could just have the Planning Department give the second draft of the proposed language and get it, get it to the commissioners maybe before our next pre-LPC meeting Danny, just for us to digest and then see whether we want to put it on the agenda for further discussion?

Mr. Dias: Okay, we can do that.

Mr. Gima: Okay. You guys, you, the rest of you guys okay with that? So we'll get, we'll get a second rough draft and to look over, in, in the next couple of weeks. Okay, okay. Alright, so last, last call on SMA minor permit rule proposed changes. Okay, so Planning Department will get us second draft to us within the next couple of weeks so we can discuss it at our next pre-Lana'i Planning Commission meeting which is typically Danny, Adrian, Nikki and myself.

Okay, thank you. It was a good discussion flushing this out. I haven't forgotten about you Adrian, so let's go back to the stuff that you researched.

Mr. Reifsnyder: Yeah, so it was this was in regards to, let me just check my notes, processing extension requests for the special use permits. So there's actually, it's kind of interesting, there's not actually a definitive rule on what exactly that extension, the deadlines for processing those extensions could be. It just simply refers to the, the rules of the commission at that time. So I'm not sure, I mean you could interpret that as being sort of the 30 days, 30 days with and with a default after 60, or you could interpret that as being the 120 days. But

I think it might be prudent to potentially adopt the rule that does give a specific definition on how long the commission has to issue a decision on an extension of a special use permit. So just something to consider maybe for the future.

Mr. Gima: Okay, thanks Adrian. Comment? Nikki?

Ms. Alboro: Sorry, Adrian, it just popped in my brain, in my mind, but is there any language that gives an amount of, how many times can they apply for an extension? Is there a language on that?

Mr. Reifsnnyder: I didn't come across that. No.

Ms. Alboro: Okay. I just, I'm just wondering.

Mr. Reifsnnyder: Yeah, I mean that's another parameter that, that you folks could consider and potentially put some limits on.

E. NEXT REGULAR MEETING DATE: June 18, 2025

F. ADJOURNMENT

Mr. Gima: Okay, everybody coming up on 8:00 p.m. I think we already talked about potential agenda items for next month's meeting. Everybody going to be here in June? Okay, so we got ag bill, HCPO Conference, and I think that's it, right? Okay, thank you everybody, got a lot done with just, just five of us tonight. Appreciate it. Good to have you back Manna. And we'll see you guys next month. Thanks you.

There being no further discussion brought forward to the Commission, the meeting adjourned at 7:54 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Nicole Alboro, Vice-Chair
Erin Atacador
Reynold Gima, Chair
Elisabeth Grove
Negus Manna

EXCUSED:

Michelle Fujie-Kaauamo
Sandi Rabaca

OTHERS:

Danny Dias, Planning Program Administrator, Current Planning Division
Greg Pfof, Administrative Planning Officer, ZAED
Kurt Wollenhaupt, Planner
Robin Liles, Planner
Caleb Rowe, Deputy Corporation Counsel
Adrian Pierce Reifsnnyder, Deputy Corporation Counsel
Roxanne Morita, Executive Assistant, Maui County Council, Lanai District Office
Leilani Ramoran-Quemado, Secretary to Boards and Commissions II, Current Planning Division