

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

Council Chamber

January 31, 2013

CONVENE: 9:04 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Gladys C. Baisa (left at 12:00 p.m.)
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Don S. Guzman (arr. at 9:06 a.m.)
Councilmember Mike White

NON-VOTING MEMBERS

Councilmember Robert Carroll
Councilmember G. Riki Hokama

STAFF: Regina Gormley, Legislative Attorney
Kim Willenbrink, Legislative Analyst
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone conference bridge)
Sarah Freistat Pajimola, Executive Assistant to Councilmember Cochran

ADMIN.: Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
William Spence, Director, Department of Planning
Michele McLean, Deputy Director, Department of Planning
Carolyn Cortez, Planner, Department of Planning (Item No. 25)
Joseph Alueta, Administrative Planning Officer, Department of Planning (Item No. 2, 20, 10)
Stanley Solamillo, Planner, Department of Planning (Item No. 10)
John Summers, Administrator, Long Range Planning Division, Department of Planning (Item Nos. 48 & 1)

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David Goode, Director, Department of Public Works

OTHERS: Raymond Hutaff, Chair, Maui County Cultural Resources Commission
Kanohowailuku Helm (via telephone conference bridge)
Plus (3) other people

PRESS: *Akaku Maui Community Television, Inc.*

CHAIR COUCH: . . . (*gavel*) . . . Will the Planning Committee meeting of January 31, 2013 please come to order? It is now about 9:04. Before we start the meeting, everybody please turn your cell phones to silent mode. Take the chance now to do that, those that have cell phones and noise-making devices. This is our first meeting of the 2013-2015 term. I wanna thank you guys for being here. I'm gonna introduce the Members that are here right now. The Committee Vice-Chair is Michael Victorino.

VICE-CHAIR VICTORINO: Good morning, Chair.

CHAIR COUCH: Good morning, Mr. Victorino. And Council Chair Gladys Baisa.

COUNCILMEMBER BAISA: Good morning.

CHAIR COUCH: Good morning, Ms. Baisa. Then we have Elle Cochran.

COUNCILMEMBER COCHRAN: Aloha.

CHAIR COUCH: Aloha. Stacy Crivello.

COUNCILMEMBER CRIVELLO: Aloha.

CHAIR COUCH: Don Guzman, excused for now, he'll be here in a bit; and Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR COUCH: Morning. And for the Administration, we're gonna have a lot of people. So I'll introduce as much as possible right now, and then they'll just be here. Will Spence will be here. Right now, we have Michele McLean who's the Deputy Director of Planning.

MS. McLEAN: Good morning.

CHAIR COUCH: And we have Carolyn Cortez from the Planning Department.

MS. CORTEZ: Hi, good morning.

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CHAIR COUCH: Good morning. Joe Alueta will be here, John Summers will be here, David Goode from Public Works will be here later. And we have Deputy Corporation Counsel, Mr. Hopper. Welcome back, Mr. Hopper.

MR. HOPPER: Good morning, Mr. Chair.

CHAIR COUCH: Good morning. I don't see anybody else in the office...in the audience there. Mr. Hutaff may be here a little bit later. We have Legislative Staff Attorney, Gina Gormley. Morning.

MS. GORMLEY: Morning.

CHAIR COUCH: And Legislative Analyst, Kim Willenbrink. Good morning.

MS. WILLENBRINK: Good morning, Chair.

CHAIR COUCH: And Committee Secretary, Pauline Martins. Good morning. Alright, we have seven items on our agenda today. We have PC-25, which is Repetitive Loss Properties Floodplain Management Plan; PC-2, which is Residential Districts and Accessory Dwellings; PC-10, Cultural Resources Commission and Maui County Historic Districts; PC-45, which is the Allowable Number of Short-term Rental Homes in the Kihei-Makena Community Plan Area; PC-48, Deadline for a Community Plan Advisory Committee to Forward its Recommended Revisions; PC-1, Approving the Order of the Nine Community Plans for the 2030 General Plan Update; and PC-20, Maximum Wall Height in Agricultural Districts. Members, without any objections, I'd like to move PC-10 to the end of the...at the end of the meeting, the end of the agenda today, because I think that one's gonna be the longest.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, thank you. Alright. Assisting us this morning from the Hana District Office is Dawn Lono. Are you there?

MS. LONO: Good morning, Chair, this is Dawn in the Hana Office.

CHAIR COUCH: Good morning. And from the Lanai District Office is Denise Fernandez.

MS. FERNANDEZ: Good morning, Chair, this is Denise at the Lanai Office.

CHAIR COUCH: Okay. And from the Molokai District Office is Ella Alcon.

MS. ALCON: Good morning, Chair, this is Ella Alcon on Molokai.

CHAIR COUCH: Okay. It doesn't look like we have any testifiers here in the gallery. Offices, let's just start from Hana District Office. Do you have any testifiers?

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MS. LONO: There are no testifiers waiting.

CHAIR COUCH: Okay. Lanai District Office?

MS. FERNANDEZ: There are no testifiers waiting, too.

CHAIR COUCH: Okay. And Molokai District Office?

MS. ALCON: The first testifier is Kanoho Helm.

... BEGIN PUBLIC TESTIMONY ...

CHAIR COUCH: Okay. Can you spell that name for me, please?

MS. ALCON: Go ahead, spell your name.

MR. HELM: K-a-n-o-h-o-w-a-i-l-u-k-u, Helm, H-e-l-m.

CHAIR COUCH: Okay. Thank you, Mr. Helm. And go ahead...let me...before you start, Mr. Helm, let me just say that, Members, if you have any questions or clarification from any of the testifiers, please speak directly into your microphones so they can hear us through the phone. And, Mr. Helm and all the testifiers, I will be giving you the three-minute warning. After I say, "three minutes", you have one minute to complete your testimony, okay. Alright, Mr. Helm, go ahead.

MR. HELM: Okay. Well, first of all, good morning and aloha to all of our representatives over there. Aloha from Molokai. I come this morning representing two hats, one, as a keiki o ka aina o Molokai, born and raised on this island, lived here all my life; and then, two, in representation of I Aloha Molokai community grassroots organization put together to malama our island in opposition of the wind turbines and the cable coming to Molokai. I come here this morning in support of Resolution 10-64 where Molokai, Lanai, Hana, and West Maui will be the first four community plans to be initiated as part of the 2030 General Plan Update. This is something that Molokai really needs. We really need to start this process as a community plan. We have a lot of people who are willing to be engaged in the community and who really wanna take part in this process. There's a lot of things going on regarding the future of this island. And, you know, it may be the demise of this island and for the rest of the state as well. So we have many, many people who have concerns, we have wonderful ideas on the different options for the future of this island that will benefit this island, Maui County, and the rest of the state as well. I just got through a meeting with the President of the Chamber of Commerce. He would be here if he hadn't another meeting. His name is Rob Stephenson, and he also supports Resolution 10-64 and he also recommends that we go through the process. And it looks like Molokai is on the first of the list to go through this planning process. So his number is 646-0928. Please call him and he

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can confirm that as well. So, like I said, we really wanna follow through with this process. And, you know, we hope that Molokai doesn't get put on the back burner like it always does.

CHAIR COUCH: Okay, thank you. Members, any questions for the testifier?

MR. HELM: So we say, do not pass --

CHAIR COUCH: Oh.

MR. HELM: --the new resolution. Keep the old one, Resolution 10-64, and go through with the process that Molokai is first on the list now, then Lanai, then Hana and then West Maui.

CHAIR COUCH: Okay, thank you. Members, any questions for the testifier? Seeing none, thank you, Mr. Helm. Molokai, any more?

MS. ALCON: Nobody's here waiting to testify.

CHAIR COUCH: Okay. And nobody has come here, either. So, Members, without any objection, I'll...

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Yes?

VICE-CHAIR VICTORINO: Did you check with Lanai? I did not...

CHAIR COUCH: I did, yeah.

VICE-CHAIR VICTORINO: Okay, I'm sorry, I didn't hear that. Okay.

CHAIR COUCH: I can do it again if you'd like?

VICE-CHAIR VICTORINO: I didn't hear you --

CHAIR COUCH: Yeah, okay.

VICE-CHAIR VICTORINO: --ask if Lanai had anybody to...

CHAIR COUCH: Lanai, are you...do you have anybody there?

MS. FERNANDEZ: No Chair, we have no testifiers here.

CHAIR COUCH: Okay. And Hana?

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MS. LONO: No, there are no testifiers here.

CHAIR COUCH: Okay, thank you. Members, without objection, I'll close testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay. Thank you, remote offices.

... END OF PUBLIC TESTIMONY ...

PC-25 REPETITIVE LOSS PROPERTIES FLOODPLAIN MANAGEMENT PLAN
(C.C. No. 11-271, C.C. No. 12-224)

CHAIR COUCH: Okay. Alright. Members, let's start off right away. PC-25, Repetitive Loss Properties Floodplain Management Plan. The Committee is in receipt of County Communication No. 11-271 and 12-224, from the Planning Director, transmitting the following reports in compliance with Resolution 01-141. A report entitled, the County of Maui Repetitive Loss Properties Floodplain Management Plan Updated 2009; a report entitled, County of Maui Repetitive Loss Properties Floodplain Management Plan Annual Evaluation Report September 2011; and a report entitled, the County of Maui Repetitive Loss Properties Floodplain Management Plan Updated in 2012; and a report entitled, the County of Maui Repetitive Loss Properties Floodplain Management Plan Annual Evaluation Report September 2012. At first, I'd like to hear from the Planning Department and let us know what the status and what these...can you summarize what's going on there?

MS. McLEAN: Thank you, Chair. As you described, the Planning Department is required to provide annual status reports to the Council on the implementation of the floodplain management plan. So, in 2011 and 2012, we transmitted the status report to you. Today with me is Carolyn Cortez who is a Planner 5 and also temporarily assigned as a Planner 6 from our Zoning Administration and Enforcement Division. She's one of our certified floodplain managers and can provide you a summary and also answer technical questions that you might have.

CHAIR COUCH: Okay, thank you. Ms. Cortez?

MS. CORTEZ: Hi. Thank you, Chair. Okay. As Deputy Director McLean mentioned, we are required annually to update you on the floodplain management plan. It's just a general summary of the individual properties. We have 18 repetitive loss properties in the County. A repetitive loss property is defined by FEMA as being a property that has incurred two losses within the last ten years. And as the County of Maui is a...has been receiving a 10 percent discount on flood insurance premiums for their flood premium...on their flood premiums; and part of this community rating system program is that we have a floodplain management plan. And, since 2009, we have not had any additional repetitive loss properties; we have 18 currently.

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CHAIR COUCH: Okay. Members...actually, Mr. Hopper, do you have any comments?

MR. HOPPER: No, Mr. Chair.

CHAIR COUCH: Okay, thank you. Members, any questions for the Department? Mr. Victorino?

VICE-CHAIR VICTORINO: Yeah, thank you. And thank you very much for being here. And I promised you I wouldn't and I will not. These maps were a comprehensive revision by whom, so that the people of Maui County understand that it is not something that the County came up with and something we just thought was nice and drew maps? Because I've been hearing a lot of people are upset that some of these maps have changed drastically enough to affect them putting their properties and sometimes only corners of properties which makes certain financial institutions say, you must carry flood insurance even though just a corner of your property is within a flood plain. So could you explain how this process is done so that the people of Maui County have a good idea?

MS. CORTEZ: Yes. Thank you, Councilman Victorino. So you're correct. The flood insurance rate maps are produced by FEMA, Federal Emergency Management Agency. It's a Federal organization as you know. And what happened was, for a long time, Maui County did not have a revision to their flood maps. Actually, 1981 is when we joined the National Flood Insurance Program, and we didn't have a revision until 2009. And what happened was, at that time, they digitized the flood maps because we were working with paper maps. And then, in September 19th of last year, we had another revision which integrated the statewide hurricane study. So, statewide, all the islands were affected and we...FEMA integrated that study into their FEMA flood maps. Now what happened also, I should mention, is that with Katrina and the failure of the levies, FEMA went out and they were reanalyzing all of the levies in the entire nation. And what happened was, we had Kaunakakai and Iao Stream levies under study. And, in 2009, they were actually going to fail those levies because they could not be recertified and, consequently, they were gonna flood the...do the modeling for the flooding showing that there were no levies in place at that time. But Congress halted that and we were allowed, as a County, to be...to certify our levies; and we're working on doing that now so that those levies will provide a measure of protection and the flood maps will not...the properties there along Iao and Kaunakakai Streams will not be flooded. So but it is a FEMA-initiated study and revisions to the flood maps.

VICE-CHAIR VICTORINO: Well thank you for that clarification. I think the public had to understand that it's been decades since this was updated, and we've done it more thoroughly and more accurately. And so if your change has been deemed and put on the map, it was not something done capriciously and just arbitrarily, it was really done with a lot of study and foresight.

MS. CORTEZ: Yes, that's correct.

VICE-CHAIR VICTORINO: And I think this is important 'cause the complaints are coming in and, you know, I'm trying to make people understand in the Iao, especially 'cause that is my district there,

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I've had a lot of people were very fearful that now they're gonna have to buy flood insurance or why they have to do this and this because we've never had it. And I says, well until the program is completed and then you finish your study, this is what we have to wait until that is completed and then, at that point in time, we can move on. So thank you for that clarification. I think this is important. And the other thing that I think is important is, Mr. Chair, that we have to understand flooding is not only from streams, but we also have tidal action which is tsunami and as well as tidal wave. And I think if some of that stuff had been done years ago, maybe we wouldn't have so many problems like in your district in Kihei where a lot of homes were built in floodplains, but were not considered floodplains back in the '80s. So, you know, all of these has changed and people have to understand, it's to be better to make it more safe. And FEMA and the National Flood Program is also instituting where if you have a continuum of disasters in this particular area, they will no longer afford you insurance. And the insurance companies are saying that, and they're not gonna afford you insurance. So in other words if you get flooded out or you get wiped out from a hurricane or...not a hurricane but a tidal wave, there are places now in the United States and as well as here in Hawaii that they will no longer offer insurance. They'll pay you off and then you must build somewhere else. Because, again, common sense tells us, if you get flooded every five or seven years and your house gets wiped out, why do you go back and build it again? I mean, but you know, again --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --sometimes you have to force the change. So I'm correct in that that some of those changes that are occurring within FEMA and the National Flood Program?

MS. CORTEZ: Yes.

VICE-CHAIR VICTORINO: Thank you. Thank you, Mr. Chair.

CHAIR COUCH: Thank you. And I have a question for Ms. Cortez. Those 18 properties, are they in that situation where Mr. Victorino mentioned that they aren't gonna be able to get insurance or we have a more strict building requirements?

MS. CORTEZ: Yes. Properties located within the flood zone do have stricter building requirements. For these 18 repetitive loss properties, though, I'm...I don't know of any that don't...have not had their insurance renewed. But there are...they're revamping the National Flood Insurance Program nationally.

CHAIR COUCH: Okay. Okay, Members, any other questions? Okay, hearing none...

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER COCHRAN: So...

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CHAIR COUCH: Yeah, our districts are the ones that are...

COUNCILMEMBER COCHRAN: Getting flooded underwater.

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: Well it's natural.

CHAIR COUCH: Uh-huh.

COUNCILMEMBER COCHRAN: It was once the Venice of the Pacific and --

CHAIR COUCH: There you go.

COUNCILMEMBER COCHRAN: --anyways, we're...so I'm just curious in regards to the...what was that? What's that called, the flood control channel that's coming towards Puamana, Kau`ula Stream? How was that played into this? I'm trying to back track here and see when, perhaps, it was proposed. And, first phase, it says here. So how has that affected or, you know, addressed the flooding in these areas, especially on Shaw, Wainee, in that vicinity? 'Cause a lot of that's been completed by now.

CHAIR COUCH: Go ahead.

MS. McLEAN: That...while it's a flood control...proposed flood-control project, that's more of a County drainage...Public Works effort rather than the flood-control program that our department administers. So it could be that as a result of that, the maps might ultimately be revised to show that some areas are protected whereas now they're not. But I don't know that it was a...I believe it was a County and State-initiated project rather than a Federal one.

COUNCILMEMBER COCHRAN: Right. But I mean still the idea was flood control; thereby, it would affect determination by FEMA to...you know what I mean?

MS. McLEAN: Once the improvements are in place, the flood maps could be revised.

COUNCILMEMBER COCHRAN: Okay. And I'm looking in one particular area here, area 5, parcel 5, which I believe is the parking lot that we have on the corner of Shaw and Front. So how does that, you know, and we're all trying to do the whole restoration of Moku`ula, Mokuhinia Pond and all that, how is that all gonna come into play with this management plan I guess? 'Cause now we're trying to, I guess, technically bring back the flood, the floodplain there, eventually; and so I'm just trying to figure out how does that come into play where people wanna prevent flooding, you know, and then you get flood insurance. But now we're trying to one day bring back all that water which naturally flows and it somehow not be in, you know, it's not going to where it naturally wants to go at this point. So we're calling that, "floodplain" and trying to

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pump it and, you know, divert it elsewhere where naturally it doesn't want to go I guess. If there's a comment for that, please?

MS. CORTEZ: The...that...I'm not actually very familiar with that project, but once the floodplain has been changed or potentially has been, you know, we're porting water away from a area that's, you know, may be residential in nature to a open space kind of area, we're trying to alter that flow. What the County does and what any actually any homeowner can do is, there's a process through which we can revise the flood maps. And so if we can show that the flooding is no longer affecting a residential area that was previously mapped in a floodplain, we can certainly provide the data to FEMA and they can revise the flood maps so that that area is taken out of the floodplain, and then those residents will no longer be required to purchase flood insurance.

COUNCILMEMBER COCHRAN: Okay, which in this area I think is us.

CHAIR COUCH: Pretty much.

COUNCILMEMBER COCHRAN: And...

CHAIR COUCH: And one in Kahului.

COUNCILMEMBER COCHRAN: Right. Okay. And a follow-up, Chair?

CHAIR COUCH: Sure.

COUNCILMEMBER COCHRAN: So I know we're revising the... 'cause we're talking about coastal inundation, also, and so are we up to date on the current mapping and is that for public review at this point?

MS. CORTEZ: Yes. The maps were revised on September 19, 2012; and it is available online through the State Department of Land and Natural Resources which is our State National Flood Insurance Program Coordinator site there. And any homeowner can look up their flood zone for that...for their property, and then we can provide information on flood insurance requirements and also for construction, building requirements.

COUNCILMEMBER COCHRAN: Okay, very good. Okay, thank you. Thank you, Chair.

CHAIR COUCH: Thank you.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Mr. Victorino?

VICE-CHAIR VICTORINO: Yeah, and to relate to what these young ladies were talking about, first of all, this project for the flood control in Lahaina is part of the Corps of Engineers along with the

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Soil Conservation and the County; it’s a joint effort. And that’s the way it’s been planned and been worked on. And there will be no revision until the entire system is completed, because it does not protect for flooding in its present state. It is a project that will take somewhere, if we’re lucky, another 10 to 12 years. And depending on the monies that are available, will make it very difficult. And the same thing goes for your district, too, Mr. Chair, you know.

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: We are lucky ‘cause we already got Iao Stream taken care of, but even then, it’s become a problem because Kahoma and other streams are having the similar situation of certification. There’s a lot of background behind of this. So I’d like the Members who have their districts in that area to do some homework, because I think it’s important for them to understand. ‘Cause your constituents are being...are going to be affected financially and a good possibility of being changed and getting hurt because of it. Because Honokohau, Honokowai, all of those areas are being changed; and they all being changed. It’s my business to understand that, that’s what I do every day. So this is why I warn you now that some of this repetitive stuff is being worked on in the...in FEMA and they are looking at the National Flood Program affording no more insurance should you...you there now you’ll be covered; next disaster, they won’t cover you. You either move or you find insurance somewhere else which I going tell you, at open market, probably won’t happen. Anyhow, Chair, so that’s the history behind the flood control program out in West Maui, ‘cause we’ve worked on it over the last five or six years. And I’m very keenly aware with the Soil Conservation people, they’ve come in many times to testify. So thank you, Mr. Chair.

CHAIR COUCH: Okay, thank you. Members, any further questions? Alright, seeing none, if there’s no further discussion, I’ll entertain a motion to file County Communications 11-271 and 12-224.

VICE-CHAIR VICTORINO: Mr. Chair, I...so moved, I should say.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: Okay. It’s been moved by Mr. Victorino and seconded by Mr. White to file County Communications 11-271 and 12-224. All those in favor, please say, “aye”.

COUNCIL MEMBERS: Aye.

CHAIR COUCH: Opposed? Let the record show that it is seven “ayes” and zero “noes”.

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
 Baisa, Cochran, Crivello, Guzman and White.**

NOES: None.

ABSTAIN: None.

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ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILING OF COMMUNICATIONS.

CHAIR COUCH: Okay. Thank you, Ms. Cortez. Nice seeing you again.

MS. CORTEZ: Thank you, Chair. Yes, thank you.

PC-2 RESIDENTIAL DISTRICTS AND ACCESSORY DWELLINGS (C.C. No. 09-82)

CHAIR COUCH: Alright, Members, we're on PC-2, Residential Districts and Accessory Dwellings. If you'll note, in your binders, you'll have a lot of correspondence. At the end, the last item—bless you—the last item in your binders dated October 14, 2011, and at the back of that is the ordinance that we're looking at. So that's what we'll be working off of when we continue. To summarize, we have a County Communication No. 09-82 from former Council Vice-Chair Michael Molina that which has two bills. A Bill for an Ordinance Amending Chapter 19.8 [*sic*], Maui County Code, Relating to Residential Districts. The purpose of the bill is to permit affordable accessory dwelling units on lots of 6,000 to 7,499 square feet in residential districts. Currently, the smallest size we allow right now is 7,500 square feet. And another bill is A Bill for an Ordinance Amending Chapter 19.35 Relating to Accessory Dwellings. The purposes of that bill are to allow an accessory dwelling unit with a maximum gross floor area of 500 square feet on lots of 6,000 to 7,499 square feet; increase the maximum gross square footage of accessory dwelling units when constructed on lots of 7,500 to 87,199 square feet; and require that accessory dwelling units built on lots of 6,000 to 7,499 square feet remain affordable for the life of the unit. Okay. The Committee is also in receipt of a correspondence dated February 9, 2010 from former Council Chair Danny Mateo, transmitting a correspondence dated February 8, 2010, from the Planning Director, transmitting comments on the proposed bills from the Lanai, Maui, and Molokai Planning Commissions, and the Hana Advisory Committee, in response to Resolution 09-60. The proposed bills were considered by the Lanai Planning Commission on October 21, 2009; the Maui Planning Commission on October 13 and 27, 2009; and the Molokai Planning Commission on October 14, 2009; and the Hana Advisory Committee on August 20, 2009. Planning Department, wanna talk with you on this for a little bit and possibly Public Works and Corporation Counsel. Members, at one time, we were...the Chair was considering just filing this because it is taking so long to get through the process, but in the...in light of the Maui Island Plan and the Urban Growth Boundaries where we're talking about more density now as opposed to sprawl, I felt it prudent that we discuss it to see if we still wanna continue on this route or if we should still file this. Because the original...my original thought was 6,000 square feet with a...an ohana unit is pretty tiny and

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very compact. But, with our Urban Growth Boundaries and with our desire for more density now, this may be something worth discussing. So, Planning Department, can you first give us some summaries? And Mr. Alueta is here with us now. Welcome, sir.

MR. ALUETA: Thank you.

MS. McLEAN: Thank you, Chair. We had anticipated that this was gonna be a very quick discussion and that the item was going to be filed. We weren't quite prepared to get into an extended dialogue. So if we can't get into detail on some of the discussion, please understand that's the reason why.

CHAIR COUCH: Sure.

MS. McLEAN: In terms of the density advocated in the Maui Island Plan, in general, we would advocate for planned density. The proposed bill isn't necessarily planned density, and that's a concern. That was a recommendation offered by the Maui Planning Commission, to understand and analyze the issue of adequate infrastructure if suddenly these smaller lots are now allowed to add that accessory dwelling. Certainly we support affordable housing, and certainly we support the kind of planned density that the Maui Island Plan contemplates. I don't believe that this bill would achieve that goal, certainly without some concerning unintended consequences. It's a...and certainly I saw the Public Works Director here a second ago; he could speak to some infrastructure concerns as well. There are other options for lots that are that small to have a, perhaps, a larger home than they have already. We're talking a separate, distinct dwelling unit which is a very different dynamic than one single-family residence on a lot. So just in one act, suddenly allowing accessory dwellings on all of these small lots, that's a pretty comprehensive action and we're not certain what all the consequences of that might be.

CHAIR COUCH: Mr. Alueta?

MR. ALUETA: Yeah. You should've received a map book like this showing you a breakdown of various lot sizes and potential for the impact of I guess a comprehensive change. The concern, again, is existing infrastructure. Many of the lots that were contemplated happen to be within your older communities that may not have, one, the drainage capacity, the sewer capacity to handle...or the on-street parking capacity. As you know...or even on-site. Normally, it's supposed to be on-site, but if you've driven through Kahului or anywhere else, you know that many of our roads are used as on-street parking for just the existing dwellings much less the expansion of accessory dwellings. So expanding these to areas where...especially where you basically don't have any on-site or on-street parking...I mean, again, some of your lower areas of...also you're increasing the densities in some of your maybe possibly your flood-zone areas such as Paukukalo. If you look down on the first page of that map, again, a lot of your older Wailuku areas. You have that in Lahainaluna, same thing. So, again, this is, as my boss indicated, we wanna increase the densities within our communities in new urbanism as they're calling it, but it...they'll probably come up with a new name in a few years. But we want it to be a planned concept. And if the Council truly wishes to pursue, you know, this in the future, they

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should probably target an area and look toward increasing the infrastructure or improving the on-street capacity and then look back and go into changing the densities. Again, a lot of the concerns raised by the planning commissions was...

VICE-CHAIR VICTORINO: Mr. Alueta?

MR. ALUETA: Yes?

VICE-CHAIR VICTORINO: I mean...I don't mean to interrupt, but I think all the Members don't have the maps that you were...I have it, but they showing me...

CHAIR COUCH: Oh, should all be here.

UNIDENTIFIED SPEAKER: No, I don't have it...

VICE-CHAIR VICTORINO: They don't have it.

CHAIR COUCH: Should be further...there's a date...

COUNCILMEMBER WHITE: Well, when he mentioned, what I was wondering was...oh, okay. I thought you were talking about lot sizes and how things would fit on that lot. We do have that map.

CHAIR COUCH: Okay.

MR. ALUETA: Yeah. This...there's a color code. So I'll go...I'll brief...sorry about that. There's a code on the front. And anything in the red is your 6,000 to 7,499, and that highlights the lots that are pretty...the crux of the matter would...that is before you on the bill of lowering the lot size standard down to 6,000 and up to 74999 [sic]. Currently, in 19.37 [sic], accessory dwellings, the minimum lot size that you need before you can get an accessory dwelling is 7,500; and that's, I believe, I wanna say 500 square-foot cottage and then it goes up to a 600 square-foot ohana and then up to 700 something and then up...I guess Ag is a thousand. But that just gives you an idea of where you have these smaller lots, the existing communities that the potential...the other concern I guess the Department had along with others that if you look back in the '80s when accessory dwellings were first...or ohana dwellings were first legislated at the state level and then at the county level, they were truly supposed to be ohana dwellings, expansion...and the concept was affordable housing. However, we find that those affordable...those ohana dwellings or accessory dwellings, as they're called in the County Code, are not being used 100 percent as affordable. They're...some of them...a lot of them are families; but a lot of them are being rented out at, you know, as part of their income, long-term as well as now with the amendments, both at the B&B and at the short-term rental or TVR bill, they're allowed to be converted to vacation rentals. So, again, a lot of those inventories that were allowed has been lost. This would add it to the inventory of accessory...of housing which, again, would add toward the affordability; however, the mechanism in which the County wishes is very cumbersome. How

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do you gage...how do you enforce that? And from the Department's standpoint, we'd be...and now my division, the zoning administration, would have to go out and enforce along with potentially the Housing Department. Say, are you renting to an affordable family? Is this determining what income or who's there? I think that if you just...it's just gonna create an enforcement nightmare.

CHAIR COUCH: Okay. Could the Department, either Mr. Alueta or Ms. McLean, kinda summarize what the planning commissions, all the different planning commissions --

MR. ALUETA: Yeah.

CHAIR COUCH: --said? It seems like that they weren't too pleased with it, either.

MR. ALUETA: Yeah, again, the, Maui held two meetings on it. Again, the...they felt the County Council should analyze issues to adequate infrastructure, as we talked about, existing lots, especially on the on-street and off-street parking. Maximum lot coverage ratio should be consistent with the applicable zoning ordinances. That dealt with, there is a bill somewhere before you for the residential districts which would allow...which would establish a lot coverage program, so they wanted to make sure that was included. Somehow encouraging or considering incentives to encourage future accessory dwellings meet the proposed affordable housing dwelling standards. Should be...language should be added to clarify that deed restrictions should be incorporated and how it is recorded against the property. And they wanted an amendment to 19.35.110.B which was deed restrictions should be incorporated into the deed which shall run with the land. County Council should explore adding incentives to encourage the rental of affordable housing to lower AMI income categories. The way the breakdown, if you looked at the proposed bill, it had certain groups. How do you...obviously, it moved up the affordability of who can...to I believe about the 140 percent of the medium income range. And which is pretty much, you know, many of your County workers. So you kinda...so you gonna have a lot of these...the working class people who may be able to get these cottages, but how do you encourage those who are not? Your single moms that are not...that are on the lower end of your income scale. What is there to encourage someone from renting that unit to them as opposed to someone who can pay a little more? So they wanted some kind of incentive there. Amending for Rural districts, some pretty minor stuff; and that came from Maui. Molokai wanted to be exempted. Just don't include them in this. And then Lanai basically recommend you should file it. Hana, again, they focused in on Hana with the individuals of very low and instead of being the gap group, so they wanted to move that scale down. So rather than have this affordable...affordability be extended into an upper income brackets by percentages, to move it down to be below moderate rather than gap income. Add parking requirement, increase the parking for accessory dwellings from one to two; that's the current Code. And, again, add...they wanted a floor area ratio not to exceed 40 percent instead of the 50 percent of the lot size. So they were looking at having the lot coverage and the floor area should the lot coverage drop a little bit.

CHAIR COUCH: Okay. Members, any questions for the Department? Ms. Baisa?

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COUNCILMEMBER BAISA: Thank you very much, Chair. Mr. Alueta, if you could please repeat the Lanai position? We were too busy giggling over Molokai.

MR. ALUETA: Okay. Lanai said to file the motion. Just...

COUNCILMEMBER BAISA: File it. Okay, thank you very much. I missed that, it was too quick. Thank you.

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And looking at these maps, man, my West Maui side is very much affected, especially up Lahainaluna Road; Wahikuli where it's already an issue for --

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: --off-street parking, congestion, I mean you name it. So definitely I hear your unintended consequences. In fact, I see it every day; my mom lives up Lahainaluna Road. So to have people, you know, give the green light to build, yeah, ohanas on already small lots is kind of crazy right now. So, definitely, not so much in favor of this one, Chair --

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: --right at this point. And then I look at South Maui, and you're not really all that affected there. So anyways I just wanted to make my comments --

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: --about this, thank you.

CHAIR COUCH: Mr. White?

COUNCILMEMBER WHITE: Is there a...is there currently a process by which somebody with a lot smaller than 7,500 square-foot size could get permission to build an ohana through a conditional use permit or something of that sort?

MS. McLEAN: They could apply for a variance.

COUNCILMEMBER WHITE: Okay. Because this is clearly something that would have to be looked at almost --

CHAIR COUCH: Case by case.

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COUNCILMEMBER WHITE: --case by case rather than just a blanket. And then the other question I had, for this type of lot between 6,000 and 7,500 square feet, what are the setbacks - front, back and sides?

MR. ALUETA: Same as all Residential which is fifteen front, six-foot side and rear, and then...

COUNCILMEMBER WHITE: Side to side?

MR. ALUETA: Yeah, and if you go two stories, the second story must be ten feet, the wall of the second story must be ten-foot setback.

COUNCILMEMBER WHITE: Is it fifteen feet front and back?

MR. ALUETA: No, just front.

COUNCILMEMBER WHITE: And what is the back side?

MR. ALUETA: Six. It's six, six.

COUNCILMEMBER WHITE: Okay. So it's six on three sides?

MR. ALUETA: Yes.

COUNCILMEMBER WHITE: Okay. And then, Chair, I provided the Members a little map which I think is somewhat instructive, because this lot is an 8,200 square-foot lot. And if you take out the yellow border...

CHAIR COUCH: We don't have that map.

COUNCILMEMBER WHITE: It was handed out. It's on my desk.

VICE-CHAIR VICTORINO: You got two and we got none.

COUNCILMEMBER WHITE: ... *(Inaudible)* ...

COUNCILMEMBER BAISA: You got your map.

COUNCILMEMBER WHITE: I thought it was...sorry, I thought Staff handed it out, but --

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: --anyway, I'll pass this down this way. But basically what it shows is that if you take out the 2,000 square feet of the lot in which the 500 square-foot ohana sits, the 500 square-foot ohana is what we're allowing or what this bill would allow. And the other lot is

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a 1,500...oh no, I'm sorry, a thousand square-foot structure. So if you take this and try to fit a 500 square-foot ohana next to this 1,000 square-foot structure within a 6,000, with the setbacks and so forth, it becomes a real challenge. That, on top of all the items that the Department brought up with respect to sewage capacity and road, you know, parking on roads and so forth, I think this is something that really needs to be looked at --

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: --almost on a case-by-case basis rather than a blanket approval.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: And Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you, Chair. And I think the filing of this communication probably will be the best way to go, Mr. Chair.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: But, you know, I think the discussion's important. I think we need...when this was originally brought forward, we were still struggling with affordable housing, was one of the main concerns. And there were families that wanted to build accessory dwellings for their families, and that was the whole purpose. I remember the discussion we had back then. Unfortunately, there's a lot of dynamics that weren't put in. And I think Mr. Molina meant well in what he was trying to do and I concurred, and I still concur. I think it should be something we look at, but maybe on a per case basis or by areas. To see what is feasible, you know. Ms. Cochran says her area is inundated, but I can say Central Maui included and much of Wailuku is even worse off. Go drive any of our streets; our streets are really built for plantation, not even built to Rural or even Urban standards. You talk about problems, I can give you 'em and multiply 'em tenfold. Anyhow, all of our communities, whether it's Upcountry, Central, West, South, all have similar problems at this point. So I would have to say that I would be more encouraged to file this communication; really have a...bring something forward that brings a per case basis, maybe even an area basis, maybe we've gotta limit and put conditions such as "for ohana", "for family use". And how you enforce that? I mean, yikes.

CHAIR COUCH: Exactly.

VICE-CHAIR VICTORINO: I can see that being a real challenge in its...that respect. But I think it's important to discuss, have dialogue like this; because there are people that really wanna do that and have properties that, you know, you might be able to squeeze it in. I mean I talkin' squeeze it in. I thought was interesting, I'll give you an area that does this and they...this is how they circumvented it. I know of lots that are five and six thousand square feet in Vegas. I'm very

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familiar with the area because my son lives there, and I go to many of his friends' homes. They live in what I call regular neighborhoods. And how they do it, they build their main house and then they have a little pantry way or walkway and then they build this separate, however attached, to the main home; and that's what they use for ohana. And I thought, wow. And these lots are four and five thousand square-foot lots, these are not big lots. In fact, if you go to Vegas, zero-lot line has been there for a long time, you know. We don't have a corner on zero-lot lines when you go up there. I mean you sneeze and, oh, you hear the restroom...never mind what you hear next door, but honest to God, that's how they got around it. And I asked that, 'cause I saw a number of homes. And they say, well this is how we can rent this and make it a part of our main dwelling, but yet it's a separate dwelling, you know. So, you know, again, there's many ways to skin a cat --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --and sometimes we gotta look at how to do that. But if somebody was willing to work on something like this, I think it's something important for this community going forward.

CHAIR COUCH: And I believe that's correct, that we...with the new Maui Island Plan and the Urban Growth Boundaries, that's something that we can certainly deal with during the community plan time.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Okay. Members, any further discussion? Alright.

COUNCIL MEMBERS: Recommendation?

CHAIR COUCH: Recommendation is to...I'll entertain a motion to file County Communication No. 09-82.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: Okay. It's been moved by Mr. Victorino and seconded by Mr. White. Any further conversation, discussion? Okay. All those in favor, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: Opposed? Let the record show that the...there are seven "ayes" and zero "noes".

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
Baisa, Cochran, Crivello, Guzman and White.**

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NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILING OF COMMUNICATION.

PC-45 ALLOWABLE NUMBER OF SHORT-TERM RENTAL HOMES IN THE KIHEI-MAKENA COMMUNITY PLAN AREA (C.C. No. 12-187)

CHAIR COUCH: Okay. Now, Members, we go on to PC-45. We were gonna move PC-10 to the end of the session. This is the Allowable Number of Short-term Rental Homes in the Kihei-Makena Community Plan Area. This Committee is in receipt of County Communication 12-187, from me, transmitting a proposed resolution entitled, Referring to the Maui Planning Commission a Proposed Bill Amending Section 19.65.030, Maui County Code, Relating to the Allowable Number of Short-term Rental Homes in the Kihei-Makena Community Plan. The purpose of this proposed bill is to refer to the planning commissions a proposed bill, that bill. It's to prohibit short-term rental homes in the area on the island of Maui known as Wailea. Members, we received a letter dated May 12th from Mr. Bud Pikrone—I'm sorry, May 3rd, I believe—and a map and it should be in your binder that basically says all of the single-family homes in Wailea, all the CC&Rs in all the subdivisions are...prohibit short-term rentals. And we had mentioned during the short-term rental bill discussions that if we found situations like that, we would be happy to mess with the cap. And the intent of this is to make the cap as zero for Wailea. So, Planning Department, can you...oh, Mr. Spence, welcome sir.

MR. SPENCE: Good morning, Mr. Couch and Committee Members.

CHAIR COUCH: Okay. Can you discuss this a little bit, give us your thoughts on this?

MR. SPENCE: Sure. The...there's...the County's had long discussions on whether we should get involved with CC&Rs or not. And as the County...as the Committee Members are aware, CC&Rs are basically a private contract amongst the different landowners of a subdivision. My personal feeling is, is that we have no business getting into what the different landowners agree with amongst themselves. The idea on...I look at this particular proposal with mixed views. On the one hand, if the Committee decides to forward this bill to the Council, you know, nobody within this Wailea area would be able to apply for a permit. It would just say, you can't do that. And in one sense it's...we're just codifying their CC&Rs which I think is, you know, I'm not

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sure that's the County's business to get into. On the other hand, you know, are we gonna be getting into enforcing their CC&Rs where, right now, that, you know, they're...I think they're perfectly capable of doing themselves. You know, just prohibiting them from...property owners from applying, that's, you know, easy enough to say. If we receive complaints right now within Wailea, you know, for unpermitted operations, we'll go down and enforce anyway. One way or another, we would enforce. But that...I just...I'm sorry, I'm not being very clear on this. I don't like...my personal feeling is, I don't like the idea of codifying somebody's CC&Rs into County Code, but --

CHAIR COUCH: Okay. Go ahead.

MR. SPENCE: --we'll still enforce if there are complaints.

CHAIR COUCH: Ms. McLean?

MS. McLEAN: Thank you, Chair. And just from a broader Planning perspective, if there's anywhere on the island of Maui where short-term rentals should at least be considered, it's the resort areas; and Wailea is a resort area. To say that short-term rentals should statutorily be prohibited when a stone's throw away you have thousands of hotel rooms, again from a Planning perspective, doesn't make much sense to us. From the County zoning ordinance, you know, that should be open to allow these uses in Wailea. Applicants would still have to follow the process, go through the permit process with neighbor notification and signage and so forth. And then, of course, the homeowners associations would control their CC&Rs and regulate those. But just, in general, it's a resort area; that's an appropriate place for short-term rentals.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Thank you. Hang on a second. I'm gonna take a little bit of liberty since I was the one to introduce this bill and explain my...explain myself. One of the reasons I did this is because in our short-term rental ordinance, we have to get a letter from the homeowners associations saying whether or not the CC&Rs allow or prohibit short-term rentals; so we have to get that letter. I...this bill is intended to alleviate a lot of work from the Planning Department. Because if all the CC&Rs say, no, then there's no reason that they...anybody should be able to even apply for a short-term rental; therefore, take up time, a lot of time - the Planning Department, and a lot of anxiety from all the residents when they see the sign go up. So while I do understand that Wailea is a resort area, all of their CC&Rs say, none, so why even put the Planning Department through that mess; that was my intent in this. So --

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: --that being said, Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you, Chair. And I can appreciate that. I agree that, you know, this is something that needs to be discussed. But I also...and with the Department in the sense of,

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once we think the armor and we start saying, we're gonna do this for this association or this for this community to protect their CC&Rs, then what opens and what happens for the rest of the County? Your Wailea area isn't the only part of the County. And this, I think, opens Pandora's box that maybe I don't wanna open up. Again we've discussed this many times, Corporation Counsel has informed us that, CC&Rs, it's a private contract between the homeowners and their association that we should not get involved in that because now we're trying to put a government regulation on somebody's private contract. Very dangerous and tenuous at best to be in that kind of a situation. So I...although I agree and I'm happy to see that they want zero, I have no problem with that. But the point still remains, once we do it for one community, what happens to other communities that want changes in their CC&Rs or want to have something and they're gonna say, well, you did it for Wailea, why not us? And, again, that's the scary part about any kind of legislation, because it must be thought of as universal for the entire County, although we may be discussing one specific area. So, again, with that in mind, you know, Chair, I listen to your rationale and I'm not against Bud or the people in Wailea. I think that's great they want zero, and if they...they should enforce it, keep it zero. I'm happy to hear that, but I don't think we should be doing that and I don't think we put the Planning Department in that predicament. I think that's a very dangerous precedent to set. Thank you, Mr. Chair.

CHAIR COUCH: Thank you, Mr. Victorino. And just in to response is, we already do this for Maui Meadows. We had put a little separate cap for Maui Meadows.

VICE-CHAIR VICTORINO: Caps?

CHAIR COUCH: Cap, uh-huh.

VICE-CHAIR VICTORINO: Cap? But we put caps all over this County.

CHAIR COUCH: Right, we did. And this would be a cap of zero, which is what this is gonna be. A and B, unfortunately, we brought CC&Rs in on the short-term rental, the short-term rental ordinance. We require the CC&Rs to be looked at by the Planning Department. And a letter from the...so my intent was to not have to have them do that for anywhere in Wailea because they are automatically are gonna have to say, no. So that's my thoughts. Mr. Guzman, you had a comment?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. No, I understand the reason why you've brought this forward. I think for the Council's purposes, we would like to see some case precedence, you know, how we handle these type of situations. So I agree with you in terms of bringing this forward. I also agree with the Department, the Planning Department's analysis in regards to how we treat CC&Rs, they are covenants that run with the land, they are private contracts which we should not be involved in that would give us some issues down the road. So I believe that, at this time, this Council should just give 'em a zero cap and let it be. I think the only time that we can really go into CC&Rs is maybe public safety or health reasons. So I think that at this point, you know, I think we should just go along with what the CC&Rs say and leave it at that.

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CHAIR COUCH: So you're in support of the bill to put the cap at zero?

COUNCILMEMBER GUZMAN: Yes.

CHAIR COUCH: Okay, thank you. Any further comments? Alright --

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: --Mr. White then Ms. Cochran.

COUNCILMEMBER COCHRAN: Oh.

COUNCILMEMBER WHITE: Thank you, Chair.

CHAIR COUCH: Oh.

COUNCILMEMBER WHITE: I'd just like to have Corp. Counsel's views on the --

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: --on the issue.

MR. HOPPER: Thank you, Mr. Chair. I think any of you that sat through the short-term rental home bill and discussed this issue knows our opinion on the issue. And that is, you know, based on law, the County has no authority to enforce CC&Rs because they're private contracts. The County has the ability to determine what...where short-term rental homes should be in the basis upon which the Planning Commission or the Planning Director decides whether or not to grant or deny a short-term rental home permit. CC&Rs can be amended, they can be stricken, they can be, you know, taken off a properties if all parties agree. And because of that and because the County has no authority to participate in those amendments or to take action to enforce the CC&Rs, then the County has no authority to really do much at all with respect to CC&Rs. The past version of the short-term rental home bill said that the Commission and the Department would neither consider nor be bound by CC&Rs. In the revised version, it does state that the Commission or the Department may consider CC&Rs and a letter is to be included with the application from the association stating whether or not short-term rental homes are allowed; that's to alleviate the Planning Department or the Commission from having to review and interpret CC&Rs. That does not prohibit, however, the granting of a short-term rental home permit if CC&Rs prohibit them. The CC&Rs are independent. So a CC&R, for example, may allow a short-term rental home. Use, where the County Code would restrict that use or not allow that use. At the same time, the County Code in a given case, may allow short-term rental homes to be applied for and obtained in a given case. But the CC&Rs may be more restrictive than the County Code. It's the same way that CC&Rs may prohibit people from painting their house a certain color or a certain way whereas the Building Code may allow that. So the given thing

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may be allowed by the Building Code, but still that person could face enforcement from their association. So I think that's how CC&Rs work; and advising based on this, I would I think advise the Council to determine whether or not they believe Wailea is an appropriate area for short-term rental homes rather than whether or not there are CC&Rs in those areas, because those CC&Rs can change. There are, I am sure, CC&Rs in the areas other than Wailea across the County that may or may not allow or allow or not allow short-term rental home use in a given case. So while I think it is the case the Council does have the authority from a policy perspective to cap rentals in various areas, I would caution about using CC&Rs or private covenants like that as a strong basis in the legislative actions that the Council would take, because, again, those are subject to change and the Council and the County, in general, does not have the ability to either enforce them or really even comment on them being changed or what they say in a given case.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: Thank you.

CHAIR COUCH: Ms. Cochran and then Ms. Baisa.

COUNCILMEMBER COCHRAN: Thank you. That was...I wanted to see what Corporation Counsel's comments were on the subject matter. And, for me, I guess to the Department, this...how would this affect what we're going through on Puamana, the...if we...what's determined today?

MS. McLEAN: Actually, we had that same question and we followed up on it. And the Puamana bill will be coming back to the Council; it just went through the Maui Planning Commission. And there would be one word that we would add to that bill to ensure that it absolutely excluded Wailea. So that the Puamana bill would for sure apply only to Puamana and not Wailea. So with that, you know, addition of one word, we can definitively say that the Puamana bill wouldn't apply to Wailea.

COUNCILMEMBER COCHRAN: Okay, thank you. Thank you, Chair.

CHAIR COUCH: Okay. And before you go Ms. Baisa, real quick to remind the Members that this is just a resolution to send to the Planning Commission, have them discuss it and then it comes back to us. So just...Ms. Baisa?

COUNCILMEMBER BAISA: Thank you very much. Since it is going to the Planning Commission, I'm sure that it's gonna be thoroughly vetted there, but my confusion—and I want somebody to straighten me out—is, on this letter from Mr. Pikrone --

CHAIR COUCH: Uh-huh?

COUNCILMEMBER BAISA: --he states that there are already subdivisions and associations and condominiums and whatever that permit vacation rentals.

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CHAIR COUCH: The condominiums do. The single-family homes do not.

COUNCILMEMBER BAISA: Okay. So if they already permit it and we're...

CHAIR COUCH: And that's not short-term rentals—I'm sorry to interrupt—those are transient vacation rentals, 'cause they're in multi-family units. There's our...that's our...kind of our...

COUNCILMEMBER BAISA: That's your little distinction.

CHAIR COUCH: Yeah. Yes.

COUNCILMEMBER BAISA: 'Cause I'm thinking, you know, how are you gonna outlaw this if it's already happening? They already are renting out their places. I don't know, to me, it's contradictory. We say, we don't want any of this short-term rental stuff in our community, but it's in their CC&Rs and they're already doing it. So I have a hard time with this, I'm sorry.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Any further discussion? Mister...did you wanna respond to that? She wanted to...

VICE-CHAIR VICTORINO: Go ahead.

MS. McLEAN: I did just wanna make a comment on an issue that Corporation Counsel raised and, actually, Councilmember Victorino touched on it as well that if this zero cap were established, and let's say next year the homeowners association in one of these areas decided, oh, we wanna amend our CC&Rs and allow them, then they are statutorily prohibited from even applying for a permit.

COUNCILMEMBER BAISA: Uh-huh.

MS. McLEAN: And, okay, today that's what they say. And yes, of course, we honor that and we acknowledge that. But that's not to say it's gonna be that way, that's determined by the homeowners. And actually on a very separate issue in West Maui, we had an issue with a condo complex. We had SMA violations we were trying to work out. There was actually, like, an overthrow of the association's board, because they were withholding information from the owners, they were acting sort of rogue on how they were handling the interactions with the County. And so once the owners fully understood what was going on, they voted all those officers out and put in a new board who's been cooperative and compliant, and everything's going really well. So homeowners associations are tricky things, and it's up to that collective group to decide what they want and what they don't want. And so, again, while today they may

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all have the prohibition, who's to say what they may have a year from now or a couple years from now?

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Mr. Victorino?

VICE-CHAIR VICTORINO: Thank you. You know, I have...in my years of working with security at private condominiums, you've hit the nail on the head. When the board changes and you bring in new members who have new ideas and new, quote, priorities and you have some kind of legislation like this, yikes. And if they've got a good lawyer on their team who is an owner of a unit or units...I've been there. You guys laughing at me, but I've been there and I've seen the suits.

CHAIR COUCH: Oh, yeah.

VICE-CHAIR VICTORINO: Oh, yeah, I've seen the suits.

COUNCILMEMBER WHITE: We're laughing with you.

VICE-CHAIR VICTORINO: Yeah, okay, thank you. I thought you was laughing against me. I'm like, don't do this, please. But I'm saying, Mr. Couch, I understand what you're saying. You wanna send it to the Planning Commission and see what they say and let them vet it out. Again, we're coming to a point where we send so much to them, you know, again, is this as important as a lot of other things that we gotta send to them?

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: That's my other question, okay. And so I cannot support this. And, you know, I may be on the losing end of any vote, though, I don't care. But I cannot because I think we're intruding into a private sector issue that we don't want to open Pandora's box. And as controversial as it is, and even if we've touched it a few times, we've always tried to get away from it by saying, and what Corp. Counsel has told us, stay away from it, stay away from it. You know, they keep telling us, you know. So my feeling is, this is just one more piece that will add to the layer of challenges that we're gonna face down the road. And I don't even think we should send this to the Planning Commission, because I think the Planning Commission has so many more important things that are coming up that need to be taken care of. And to spend time on this one when they have their own CC&Rs, they have their own rules, it's not happening there. Just let it be there. Let them decide, let their association decide. And if they want it down the road, like Ms. McLean has mentioned, well now they can do that because we didn't put a law or an ordinance saying, zero, and now they wanna do it. That's up to them, that's their properties. So I cannot support this, and I...I'm on record right now, so if Bud Pikrone and all

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the rest of the Wailea people don't love me, sorry, but I just cannot do something like this, you know. I think it's...we're stepping over the bounds that I don't wanna step over. Thank you, Chair.

CHAIR COUCH: Okay. Any further comments? Mr. White?

COUNCILMEMBER WHITE: For the Department, are there any current applications from Wailea?

MR. SPENCE: I'm—Mr. Chairman?—I'm not sure. I can e-mail our Division Chief real quick and find out.

COUNCILMEMBER WHITE: If you wouldn't mind, I'd...you know, because --

MR. SPENCE: Okay. And, Mr. Chairman?

COUNCILMEMBER WHITE: --yeah, we're treading into areas that we may not need to be treading in. So...

CHAIR COUCH: Mr. Spence, just to answer in a way Mr. White's question, I know there were two illegal ones that the Department went after. And I think they finally got them closed down, or not, I'm not sure. But at the...the Department went after them and so did the homeowners association and at a great expense --

MR. SPENCE: And...

CHAIR COUCH: --to the homeowners association.

COUNCILMEMBER WHITE: Yeah, but --

MR. SPENCE: Well it's...and it's...

COUNCILMEMBER WHITE: --we have illegal vacation rentals where we have no CC&Rs anyway.

CHAIR COUCH: Uh-huh.

MR. SPENCE: Yeah.

COUNCILMEMBER WHITE: So I mean illegal is not unusual.

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: So...

MR. SPENCE: Yes. And, Mr. Chairman --

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COUNCILMEMBER WHITE: And...

MR. SPENCE: --I would comment that I think if there's a cap on, all the means is that nobody in Wailea can apply. If there are illegal vacation rentals operating and somebody files a complaint with the County, cap or no cap, we're obligated to enforce. And I would also like to just comment that I...I'm in agreement with Mr. Victorino. There are some really big issues in front of the Planning Commission and in front of this Committee and in front of the Council that affect a lot more people than...I mean this is a relatively minor thing as opposed to modifying the business districts and the residential districts and home occupation and those kinds of things.

COUNCILMEMBER WHITE: Yeah, and...

CHAIR COUCH: Mr. White?

COUNCILMEMBER WHITE: Yeah, and I...one of the other comments that Mr. Victorino brought up which I think is a concern is that if we do this for Wailea, who else is gonna come stand in line? And then we're just gonna be...we're gonna be processing individual caps all over the County, so I have to agree. I'm...this may not be one of the most important things to send to the Planning Commission at this point.

CHAIR COUCH: Okay. Any further comments? Ms. McLean?

MS. McLEAN: Thank you, Chair. We did get a speedy response from our current Division --

CHAIR COUCH: Wow.

MS. McLEAN: --that we do not have any pending short-term rental home applications from Wailea.

CHAIR COUCH: Okay. Alright. I think I can count, but I'm not sure how it's going. I will entertain a...I guess I think we've discussed it quite a bit and that's what I told my constituent I would bring that up for discussion. We have discussed it. I don't see a lot of support even with the Department. Even if we were to send it down there, they're gonna recommend against it and it's gonna come back with a recommendation again. So I'll entertain a motion to recommend the filing of County Communication 12-187.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER GUZMAN: Second, Chair.

CHAIR COUCH: Okay. It's been moved by Mr. Victorino and seconded by Mr. Guzman to file County Communication No. 12-187. Any further comment? Mr. White?

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COUNCILMEMBER WHITE: I'm assuming that if Wailea wants to take this directly to the Planning Commission, they could do that as well, is that correct or does it have to come from us?

MR. SPENCE: The...Mr. Chairman?

CHAIR COUCH: Go ahead.

MR. SPENCE: By Charter, legislation either is initiated by the County Council; or in zoning matters, can be initiated by the Planning Director. If Wailea came to the Planning Department and said, would you please process, we would probably decline.

COUNCILMEMBER WHITE: Okay, thank you. Thank you, Chair.

CHAIR COUCH: Okay. Any further discussion? All those in favor to file County Communication 12-187, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: Opposed? Let the record show seven "ayes" and zero "noes" and zero Members "excused".

VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers Baisa, Cochran, Crivello, Guzman and White.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FILING OF COMMUNICATION.

CHAIR COUCH: Members, it is about 10:15, do you wanna take the mid-morning break?

COUNCIL MEMBERS: Yes.

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CHAIR COUCH: Till 10:25, we are in recess till 10:25. . . . (*gavel*) . . .

RECESS: 10:17 a.m.

RECONVENE: 10:32 a.m.

CHAIR COUCH: . . . (*gavel*) . . . Okay. The Maui Planning Committee meeting of January 31, 2013 will come back to order.

PC-48 DEADLINE FOR A COMMUNITY PLAN ADVISORY COMMITTEE TO FORWARD ITS RECOMMENDED REVISIONS (C.C. No. 12-235)

CHAIR COUCH: Alright, Members, we're back; we're on to Item No. PC-48 which is the Deadline for a Community Plan Advisory Committee to Forward its Recommended Revisions. The Committee is in receipt of County Communication 12-235, from Councilmember G. Riki Hokama, transmitting a proposed bill entitled, A Bill for an Ordinance Amending Section 2.80B.080, Maui County Code, Relating to Deadline for a Community Plan Advisory Committee to Forward its Recommended Revisions. The purpose of the proposed bill is to authorize the Council to extend, by resolution, the time in which a community plan advisory committee shall forward its recommended revisions to the Planning Director. Planning Department, do you have any comments on this one?

MR. SUMMERS: Thank you. You know, the Department really views this as more of a technical amendment. The other committees - the GPAC, the Planning Commissions, have this authority. I think it was just, perhaps, maybe an oversight during initial drafting of 2.80B.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Corp. Counsel, do you have any comments?

MR. HOPPER: Mr. Chair, this does appear to follow the same form as Mr. Summers stated with respect to the other, I guess, boards to deal with the Community Plan and General Plan Update. This would still require, of course, the Council to pass a resolution in a given case to extend the time. But this would, at least, give the Council the authority to pass that resolution if the time comes that requires an extension. So that's essentially what it would do.

CHAIR COUCH: Okay. Question for you, sir, would be, if this doesn't pass, what would happen if they didn't meet the deadline?

MR. HOPPER: Well, Mr. Chair, I can't give you an answer based on experience because I think in any case where we've had this come up, we have had a resolution passed. That'd be uncertain; we

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need to look at that. I do not believe that there is a really a consequence in the Code of that happening. I think a resolution, even retroactively, could be passed to extend the time. But, you know, you would have to look at the Code requirements of that amount of time. And then, perhaps, arguably the next stage, the Planning Commission or the next stage, the Council could then act without receiving the comments from the General Plan Advisory...or, I'm sorry, from the Community Plan Advisory Committees. So maybe they would be able to act without that. But, again, there's no precedent for that, because in all other cases that I know of where the GPACs or the...basically the GPACs had ever been late. They had obtained an extension from the County Council to extend their deadlines.

CHAIR COUCH: And therein lies the problem, I think, is that we had to extend several times just because the ability was there; that's my concern. Anyway, Mr. Victorino?

VICE-CHAIR VICTORINO: And, Chair, and thank you. And though I agree with you that once you open, again I use the terminology, Pandora's box and you make allowances for it, there's a strong tendency to use those allowances. It's like anything else, if you know you have it, the tendency sometimes is to use it. However, on the other side of the coin is that we will have groups or communities that may struggle with certain issues that may need additional time. And to be grappling whether it's legal or not at that point in time, would be, again, just not right. On top of everything else, we've allowed it in the past, we've done it in many other incidences; so we cannot say, precedence is, no, we don't allow it. So although I feel what you're saying, Mr. Chair, I would tend to say that I would be more cognizant and probably more towards leaning as far as wanting to get something like this on the books so that when it...and if it's needed, it's there. And plain and simple. Other than that, we're just...I just don't think an after-the-fact, we have enough after-the-fact issues to deal with, let's not have one more, you know. So that's my take on it, and let's...I will wait to hear what others have to say. Thank you, Mr. Chair.

CHAIR COUCH: Chair Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. Having recently recovered from the Maui Island Plan process, I think this is a really important thing to do. Yes, deadlines are very important and, as everyone knows, I'm kind of a person who's obsessed with time and timeliness. But, you know, stuff happens. And I think these are goals that we have to try and meet and their guidelines. And it's incumbent upon the folks that lead these CPACs to make sure that they try to keep people, you know, in line and going towards the deadline. And I think reminding people all the time is really important that we do have a deadline. But if something happens, I think it's a very good thing to have, and I support Member Hokama's recommendation.

CHAIR COUCH: Okay. Further comments? Mr. Guzman?

COUNCILMEMBER GUZMAN: Thank you, Chair. I would also support this language in regards to having a...the Council have that discretion to extend. I think that anytime that you have that

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opportunity for the Council to bring forth those who are met or have to meet a deadline and explain the reasons why they need the extension, it is up to, you know, it will allow this Council, by its discretion to vote on it to extend it or not to extend. So I would be in agreement to this.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Thank you, Chair.

CHAIR COUCH: Members, any further comments? I still have one. And no disrespect to Mr. Hokama. I understand why he's doing this. But my thoughts are that, yes, we can change it if necessary further down the line 'cause we can always change any ordinance, and...but the GPAC took how many extensions, they had three, two? Mr. Summers?

MR. SUMMERS: The GPAC had one extension.

CHAIR COUCH: Oh, only one?

MR. SUMMERS: Yeah.

COUNCILMEMBER BAISA: Yes. It was us.

CHAIR COUCH: Okay.

MR. SUMMERS: That was the Maui GPAC. Then the Molokai GPAC had an extension, but that was simply because they started three weeks later than Lanai and Maui, so it's more of a technical adjustment as opposed to a need for more time.

CHAIR COUCH: Okay. Mr. Spence?

MR. SPENCE: Mr. Chairman, having been involved with the earlier community plans, and I'm trying to recall, I believe it was only Molokai at that time that had an extension for their Citizens Advisory Committee. So it was . . . (*inaudible*) . . .

CHAIR COUCH: So it's not a normal thing to get an extension or even request one?

MR. SPENCE: Really a lot depends on the chair of the committee on how quickly they get through the material.

CHAIR COUCH: Okay. Alright, any further comments?

COUNCIL MEMBERS: Recommendation?

CHAIR COUCH: Okay. In that case, I will entertain a motion to recommend passage of the first...on the first reading of a proposed bill entitled, A Bill for an Ordinance Amending

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Section 2.80B.080, Maui County Code, Relating to Deadline for a Community Plan Advisory Committee to Forward its Recommended Revisions.

VICE-CHAIR VICTORINO: Chair, so moved.

COUNCILMEMBER GUZMAN: Second.

CHAIR COUCH: Okay, it's been moved by Mr. Victorino --

MS. WILLENBRINK: Chair?

CHAIR COUCH: --and seconded—I'll get that in a second, Kim—and seconded by Mr. Guzman. And, Mr. Victorino, I also would like to see if we can allow Staff to make non-substantive revisions and the filing of County Communication No. 12-235 --

VICE-CHAIR VICTORINO: No objections, Chair.

CHAIR COUCH: --to add that.

VICE-CHAIR VICTORINO: So moved.

CHAIR COUCH: Okay. Any further discussion? All those in favor, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: All those opposed? Let the record show it's seven "ayes", zero "noes" and zero Members "excused".

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
 Baisa, Cochran, Crivello, Guzman and White.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

**ACTION: FIRST READING OF BILL AND FILING OF
 COMMUNICATION.**

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**PC-1 APPROVING THE ORDER OF THE NINE COMMUNITY PLANS FOR THE 2030
GENERAL PLAN UPDATE (C.C. No. 13-39)**

CHAIR COUCH: Okay. Alright, next up is PC-1, Approving the Order of the Nine Community Plans for the 2030 General Plan Update. This Committee is in receipt of County Communication No. 13-39, from me, transmitting a proposed resolution entitled, Approving the Order of the Nine Community Plans for the 2030 General Plan Update. The purpose of the proposed resolution is to establish the order of the decennial updates on the nine community plans. Before we get into any comments, my thought on putting this in is that we have some very large areas that are...have a lot of pressure on them to get the community plans done, and I think that those need to be up at top as opposed to towards the end of the list. So that's why I brought this up. Now I'm not married to the exact order that's in the bill, which is fine. And you also have the old Resolution 10-64 that has the old order of the community plans. So we just passed that out --

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: --just there. Mr. Victorino, before we go too far, let me --

VICE-CHAIR VICTORINO: Okay, yeah. Go ahead, yeah.

CHAIR COUCH: --ask the Department what their thoughts are on this.

MR. SPENCE: Well thank you, Mr. Chairman. For the Committee's information, it has...you probably read in the paper, Lanai is already underway.

CHAIR COUCH: Yes.

MR. SPENCE: The...we have already started working on the Molokai plan. And in a second I'll let Mr. Summers discuss that, how much we've expended in hours, et cetera. We actually have a draft, sort of a really, really rough draft of the Molokai Plan and because with, you know, the second one to go was going to be Molokai, and so we've been gearing up for that. So I think our preference would be to continue with Molokai. At the same time I recognize, though, that the three areas on the...on Maui that are gonna be under the most development pressure are going to be West Maui, South Maui and Central. That's where we just completed the Maui Island Plan, that's where most of the growth is slated for, and it's going to be very important for those communities to dive into those plans as quickly as possible. I'd like to have our Division Chief, Mr. John Summers, comment on how we've progressed towards drafting a Molokai plan.

CHAIR COUCH: Okay.

MR. SUMMERS: Thank you. I would note that the Department has invested a significant amount of time in the Molokai Community Plan Update. And, as Director Spence indicated, we have a draft product that has been prepared. There are a couple of chapters left that we're working on and

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we're trying to format it to be consistent with the Lanai Plan. The Department also held several planning charettes and workshops on Molokai. We did a fairly significant outreach effort in order to have grassroots input to formulate the draft, so that was also a pretty significant investment of our resources into that project. We've had consultant help for the projects, we have invested a fair amount of money into that Molokai Community Plan Update as well as the...just the staff time, our own office in terms of preparing the maps, doing the workshops, drafting the document and whatnot. So there's been a fairly substantial investment of our resources. In terms of the broader policy issue, everybody knows that Molokai has had significant disinvestment, the last few years. And I think some could describe it as sort of a siege that the community is under. So they are significant, they're not facing the significant growth challenges in terms of trying to accommodate different proposals; it's the opposite of that, they're in a disinvestment situation. And there's important planning policy that can be proposed to help ameliorate that condition as well.

CHAIR COUCH: Okay. All of that work you say you've done and are in process of doing, putting that off for a year or so, is that...I mean this work is still done, right? There's not...it's not gonna go away, it's not wasted effort?

MR. SUMMERS: Well what happens is that the policy recommendations are based on technical studies and public input. And so that the further away you get from the ripeness of the information, the more work that needs to be done in terms of updating it. When we go into the Maui Community Plans, there's gonna have to be careful attention paid in terms of what do we want these plans to look like. We're anticipating...and there's been a lot of discussion in this Committee about potential revisions to 2.80B in terms of looking at the community plans, how can they be...how can they better fit with the Maui Island Plans. So, you know, we...in terms of our staffing, we've got the Lanai Community Plan Update in the hopper. We could, you know, we're looking at a phased approach to get the Molokai Community Plan up and running. If we shift resources to the Maui Community Plans, it'll be awhile before we get back to Molokai. And whether that policy that's been drafted is still relevant down the road, I can't vouch for that.

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Mr. Victorino?

COUNCILMEMBER CRIVELLO: Mr. Chair?

VICE-CHAIR VICTORINO: Thank you, Chair. You know, we really have to be cognizant of what the Department is saying. And I think, you know, I would like to see—and I would be proposing at a moment with Ms. Crivello's assistance—moving Molokai up to Lanai, Molokai and let the rest of the list work together as it is. I would have no challenge in that, because I think Molokai is ready to go. And, like you say, once they're ready to go, no sense putting them off. West Maui and South Maui are the two areas, that if we all remember, had the most challenges in the overall

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scheme of things, okay. And Central had some, and the rest of 'em were pretty okay with overall, you know, we never heard much. I mean we heard from the communities, but they're okay with what they had or what they wanted to be, and I think we're okay. But in what I'm hearing about Molokai and since you've already got that and we heard the testifier and I'll let Ms. Crivello go from this point, but I'd like to propose moving Molokai right after Lanai. So be Lanai, Molokai, then West Maui. You know, the rest could stay the same. I see no reason to make any changes in the other areas unless those areas' reps, you know, have a strong feeling about something. And mine would be kinda like smack in the middle; but, you know, our area is the largest area, it has the most complexity, the Central part of Maui which is Mr. Guzman and my area. And so but again, if Molokai's ready to go, they've been participating, I don't wanna see them put off in the backburner. Our sister island should not be put off like that. So I would be more supportive and make that kind of a proposal. Thank you, Mr. Chair.

CHAIR COUCH: Okay. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Council Victorino. I, too, will not support the resolution we have before us to replace Resolution No. 10-64. Simple, don't put us on the backburner. I also recognize that the other communities on Maui needs to come up with their community plan. If the Maui Plan took so many years to complete, how much, you know, what's our timeframe for Molokai to start going? And what Mr. Summers shared was the participation that, and the investment the Planning Department put in, was very positive as far as having Planning Department come up with the different focus groups and the efforts to list...have their different sessions on the island. And so what sort of timeframe we looking at to put that? So we've waited a long time and no different from everyone else. And if we can do it simultaneously, great, that would be...put a lot of pressure on the Planning Department. But I feel that Lanai, Molokai and Hana is listed as coming up next. And, in all consideration, let's keep it that way.

CHAIR COUCH: Okay. I have a question for the Planning Department. It's my understanding from people who have worked on the '90s community plan that you guys did five at a time, five at one and four on the other?

MR. SPENCE: Thank you for that question, Mr. Chairman, because I was a staff planner for...I was actually a staff planner for the Molokai Plan, Upcountry and Paia-Haiku. The Planning Department at that time did two plans at a time. That was pretty much the maximum that we could handle. They did pile up at the Council level, because the Council's dealing with, you know, so many other things. So the Planning Department had transmitted different plans up and the Council took them one at a time, and that actually took quite a while.

CHAIR COUCH: Okay. But you can do two at a time?

MR. SPENCE: We're really exploring that right now. As the Committee Members know that one of my thoughts is that we spend so much time planning and do not a whole lot of implementation. I think we should be swapping that. It's essential to do the plans, but we're often accused of, you

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know, not implementing these plans. Well, it's 'cause we spend so much time, you know, doing the plans. I would...Mr. Chairman?

CHAIR COUCH: Yes?

MR. SPENCE: Just one comment with regards to Lanai and Molokai. We just finished the Maui Island Plan, Lanai is its own island, it's not just –

VICE-CHAIR VICTORINO: Uh-huh.

CHAIR COUCH: Uh-huh.

MR. SPENCE: --you know, it's what's encompassing the entire island and same thing with Molokai. So in that respect, they are rather unique. The other communities' plans that we're going to undertake are portions of Maui, so it's a distinct difference. I would also say I think Mr. Summers was diplomatic in saying we aren't really geared up. You know, there would be some delay if we switched immediately to West or South or Central. I would more term it, it would be a deadlift. I mean 'cause we're...we would be starting from zero on if we start into the other districts here. So I can't say how long it would take to complete some of the studies, but it would be awhile.

CHAIR COUCH: Okay. Mr. White?

COUNCILMEMBER WHITE: Thank you, Mr. Chair. You know, I think that since Lanai and Molokai are already started and as Mr. Spence says, they're both island plans like Maui, I think it makes sense to proceed with them. However, districts like mine and Hana and Kula or Upcountry, the other part of Upcountry, I think should be behind the others. So I would suggest we move ahead with in the order of Lanai, Molokai, and then come back to West Maui, Kihei-Makena, Wailuku, Makawao, Pukalani-Kula and then Paia-Haiku and then Hana.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: And I don't know why Kahoolawe is on the list, but I'm sure there's a reason for it.

CHAIR COUCH: It's community plan. There's...they have a community plan.

MR. SPENCE: Yeah.

VICE-CHAIR VICTORINO: Yes.

MR. SPENCE: Even if there's no community.

COUNCILMEMBER WHITE: That's really important.

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COUNCILMEMBER CRIVELLO: Mr. Chair?

CHAIR COUCH: Ms. Crivello --

COUNCILMEMBER CRIVELLO: I...

CHAIR COUCH: --then Ms. Baisa.

COUNCILMEMBER CRIVELLO: I'd also would like for Committee to take note on the written testimony that the Committee has received --

CHAIR COUCH: Yeah.

COUNCILMEMBER CRIVELLO: --from Planning Commissioner, Lori Buchanan and the I Aloha Molokai group. And, you know, we may not be in the stage of having multi developments or resort development or high-end homes, but today there's the major conversation going on about industrial wind farms --

CHAIR COUCH: Uh-huh.

COUNCILMEMBER CRIVELLO: --for the island, and that's Statewide. And Molokai and Lanai has a very important role in the decision making that will come about with that. And I think it's important for us to move forward as to what the community wants as what...how they want to insert their land uses when it comes to that sort of development for the island as well as others. And how we, too, want to value the mokupuni ku`u aina that we are the country and the island that we are that we value and how we can be compatible in meeting with today's needs. And we'd like to encourage the support, too. And I thank the Planning Department for their support, and I really feel that we should move forward with our community plan.

CHAIR COUCH: Okay. Ms. Baisa?

COUNCILMEMBER BAISA: Yes, thank you very much, Chair. I can support the proposal before us put forward by Mr. Victorino and the rest of our...my colleagues. When...I know that when we were discussing changing the order, one of the things that we were talking about was that the Lanai CAC had already been informed. And the proposal for naming the Molokai CAC had been delayed because we wanted to see how Lanai would get off the dime. And, also, I know there was a lot of discussion about in our pursuit of trying to get economic development going, that we were looking at the areas where, you know, there's a whole lot of activities that are being planned and put forward and, of course, we want to give the folks that are involved in these things some assurance that it's gonna be in the community plan so that they can move forward as they make investments and due planning for the economic benefit of our islands. And so it was felt that, you know, maybe it wasn't so urgent to do some of the areas where less is being planned. And I know that's the rationale that why this list is the way it was proposed. But, you know, I didn't

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realize, and I think at that time we didn't realize, that so much had been done on Molokai already even though the Committee had not been named. But, you know, now that we're hearing what we're hearing today, and we certainly don't want to derail anything that's already been done. 'Cause one of the frustrations we went through with the Maui Island Plan was that because of the time it took from when the studies were done until the time that we actually worked on the policies, lot of the information that was in the studies was obsolete. You know, things change really quick: the economy changes, the housing situation changed, construction changed, a lot of things changed. So if we have that information for Molokai, we better use it while it's hot and relevant and then move on to the rest of the list. So I can support the change. Thank you.

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Yes, Mr. Victorino?

VICE-CHAIR VICTORINO: Can we have a Committee recess, please?

CHAIR COUCH: Yeah. Two-minute recess. . . . (*gavel*) . . .

RECESS: 10:58 a.m.

RECONVENE: 11:00 a.m.

CHAIR COUCH: . . . (*gavel*) . . . The Planning Committee meeting of January 31st will come back to order. Alright, Members, any further comments about this?

COUNCIL MEMBERS: Recommendation?

CHAIR COUCH: Okay. Before I give my recommendation, I just wanted to, as Ms. Baisa, I wanted to kinda echo what Ms. Baisa said that there are some very strong pressures on West and South Maui, for sure, and Central, too; a lot of units being planned in the Maui Island Plan. And my concern is that when we're in a...an area, kind of a gray area, which one's first, the Maui Island Plan or the existing community plans? We want to get that taken care of, so that's why I came up with this bill. I am certainly...I understand the Planning Department's position and I'm willing to go along with bringing Molokai up as the next one and then leaving the order as the rest of 'em on the list. So my recommendation would be to...let's see, I'll entertain a motion to recommend the adoption of the proposed resolution entitled, Approving the Order of the Nine Community Plans for the 2030 General Plan Update, and to allow Staff to make non-substantive revisions and filing of County Communication 13-39.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

CHAIR COUCH: Okay. It's been moved by Mr. Victorino...

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COUNCILMEMBER CRIVELLO: Chair?

CHAIR COUCH: Yeah?

COUNCILMEMBER CRIVELLO: Yeah, okay.

CHAIR COUCH: Wait, did we get a second?

VICE-CHAIR VICTORINO: We need a second.

COUNCILMEMBER BAISA: A second.

CHAIR COUCH: Did you second?

COUNCILMEMBER CRIVELLO: No, Mr. Victorino did, huh?

COUNCILMEMBER BAISA: No.

CHAIR COUCH: No, he made the motion.

COUNCILMEMBER BAISA: We need a second then you can amend

VICE-CHAIR VICTORINO: Second. Just say, "second".

COUNCILMEMBER CRIVELLO: I second.

CHAIR COUCH: Okay. It's been moved by Mr. Victorino and seconded by Ms. Crivello. Members, any comments?

COUNCILMEMBER CRIVELLO: Mr. Chair?

CHAIR COUCH: Ms. Crivello?

COUNCILMEMBER CRIVELLO: I'd like to amend --

CHAIR COUCH: Uh-huh.

COUNCILMEMBER CRIVELLO: --the motion to allow that the original, 10-64, that Lanai, Molokai, and West Maui will be the first community plans to be initiated.

VICE-CHAIR VICTORINO: Ms. Crivello, you wanna just move Molokai behind Lanai? Is that what you...

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COUNCILMEMBER CRIVELLO: That's correct.

CHAIR COUCH: Do you wanna just go Molokai behind Lanai, is that...

COUNCILMEMBER CRIVELLO: Well, we're doing Lanai already --

CHAIR COUCH: Right, Molokai.

COUNCILMEMBER CRIVELLO: --so the next would be Molokai.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: I'll second that motion, Mr. Chair.

CHAIR COUCH: Okay. It's been moved by Ms. Crivello and seconded by Mr. Victorino to move Molokai to the second on the list. Any further comments? Ms. Chair Baisa?

COUNCILMEMBER BAISA: Thank you very much, Chair. I just wanna be sure that we're clear, because 10-64 says, Molokai, Lanai, Hana and West Maui. So just to be clear, we're not going back to 10-64.

CHAIR COUCH: Correct.

COUNCILMEMBER BAISA: We're having a different order.

CHAIR COUCH: Is that your...

COUNCILMEMBER CRIVELLO: That's my understanding because we've already starting on Lanai.

CHAIR COUCH: Right.

COUNCILMEMBER CRIVELLO: Lanai is in motion. So we would come together to do that. And if Planning can make it simultaneously, better yet.

CHAIR COUCH: Even better. Okay. Mr. White?

COUNCILMEMBER WHITE: Yeah, I think the...to be clear, what we're dealing with today is your resolution --

CHAIR COUCH: Correct.

COUNCILMEMBER BAISA: Correct.

COUNCILMEMBER WHITE: --not 10-64. So --

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COUNCILMEMBER CRIVELLO: Thank you.

COUNCILMEMBER WHITE: --so I don't know that it needs to be restated, but the cleanest would be just to amend your resolution by moving Molokai --

CHAIR COUCH: To second.

COUNCILMEMBER WHITE: --after Lanai.

CHAIR COUCH: Is that --

COUNCILMEMBER CRIVELLO: Yes.

CHAIR COUCH: --the intent? Okay. Alright.

VICE-CHAIR VICTORINO: And that's what I seconded, Mr. Chair.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Thank you.

CHAIR COUCH: So any further comment on that? So the motion is to move Molokai as to the second position on the current resolution, Resolution number...what is this?

VICE-CHAIR VICTORINO: We don't have a number, yet.

CHAIR COUCH: Oh, we don't have a...County Communication 13-39 to the second position. Is everybody understanding that?

COUNCIL MEMBERS: Yes.

CHAIR COUCH: All in favor, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: All those opposed? Let the record note that the motion passed, seven to zero.

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
Baisa, Cochran, Crivello, Guzman and White.**

NOES: None.

ABSTAIN: None.

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ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: AMEND RESOLUTION.

CHAIR COUCH: So back to the main motion. We have a motion from Mr. Victorino approving the order of the nine community plans for the 2030 General Plan Update as amended and to allow Staff to make non-substantive revisions and filing of County Communication 13-39. Any further comment? All those in favor, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: Opposed? Let the record show it's seven "ayes", zero "noes".

**VOTE: AYES: Chair Couch, Vice-Chair Victorino, Councilmembers
Baisa, Cochran, Crivello, Guzman and White.**

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: ADOPT REVISED RESOLUTION.

PC-20 MAXIMUM WALL HEIGHT IN AGRICULTURAL DISTRICTS (C.C. No. 10-12)

CHAIR COUCH: Alright. Members, we're getting close to the end. We're now on PC-20. And that is the Maximum Wall Height Agricultural Districts. The Committee is in receipt of County Communication No. 10-12, from former Council Chair Danny Mateo, transmitting correspondence dated December 11, 2009, from Jim Whitehead, relating to the interpretation and enforcement of the maximum wall height district standard contained in the Agricultural District zoning ordinance (Chapter 19.30A, Maui County Code). Can we have some comments from the Planning Department on this? We got a pretty big stack of stuff here.

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MR. ALUETA: I'm not sure if you're in receipt of our transmittal, our recent transmittal. The...after the meetings that you had regarding ag walls and the potential for exempting utility pedestal walls, you asked the Department to look into it. And that was at the...one of your last meetings, Mr. Chair.

CHAIR COUCH: Uh-huh.

MR. ALUETA: You narrowed down the focus, again, to just the utility pedestal walls to look at the potential amendments. The Department did draft something, we did transmit it and take it to all three planning commissions; and there was an approval for fixed dimensions for utility and a new definition of a...what we calling a "utility pedestal wall". I worked with Corporation Counsel to refine it, and that bill was transmitted...that proposal was transmitted up to you. So I'm not sure where it's at in the works, that's why...

CHAIR COUCH: Do you know when that was transmitted?

MR. ALUETA: I...

CHAIR COUCH: 'Cause I don't know that it's been accepted, yet.

MR. ALUETA: No, I believe it is just recent, because I recently got it back from Corporation Counsel. Let's see.

CHAIR COUCH: So we may not have received it, yet?

MR. ALUETA: That is correct.

CHAIR COUCH: Okay, so...

MR. ALUETA: That is my...that's my concern.

CHAIR COUCH: And then, in this case, that would supersede anything in this item, PC-20, is that what you're saying?

MR. ALUETA: I'm not sure what PC-20 was...I think it was just left open as a discussion item. I'm not sure what the actual bill is saying.

CHAIR COUCH: Oh.

MR. HOPPER: Alright. So just, Mr. Chair --

CHAIR COUCH: Yeah?

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MR. HOPPER: --just to clarify, I think that bill—Director can correct me if I'm wrong—went through the planning commissions, it was approved as to form and legality by our office and it's on its way to you. It is not on your agenda today, so there wouldn't be able to be any action, and I don't think the Members have a copy of the bill.

CHAIR COUCH: No, there isn't.

MR. HOPPER: Anyway, but as far as it relates to this item, I mean it does I think the intent of the bill is to allow for utility pedestal walls and kind of does deal exactly with this issue. So, while you've...you wouldn't be prohibited from having a general discussion on this item and the issue, there is a bill on its way up to you that would I think deal directly with the issue.

CHAIR COUCH: Okay. Members, any comments?

VICE-CHAIR VICTORINO: Mr. Chair? You know, I guess we may have to just defer this, because I mean without I mean we can sit here and talk about it, some of us were here when this was brought up --

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: --originally. There are some new Members if they have questions, you know, maybe this is the time. However, you know, I see no sense in really delving --

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: --into something that we're gonna say, we're gonna defer at the end of the day...

CHAIR COUCH: Actually, in fact, I think I would --

VICE-CHAIR VICTORINO: File?

CHAIR COUCH: --consider filing this communication if that whole new bill is coming in. Just check with --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --Staff on that.

VICE-CHAIR VICTORINO: Yeah, check the legality on that.

CHAIR COUCH: I'm gonna take a two-minute recess. . . .(gavel). . .

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RECESS: 11:08 a.m.

RECONVENE: 11:10 a.m.

CHAIR COUCH: . . .(*gavel*). . . Okay, Members, if you look at your package...packets, there's a November 20th letter from me to Mr. Spence asking for a bill amending Section 19.30A.030F. And they have done that. They haven't...it's going through the Mayor's Office. So it's the Chair's intent to just go ahead and defer this, and we can discuss it when we get that bill. Any objections to that?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (DC, MV, GB, EC, SC, DG, MW)

ACTION: DEFER.

CHAIR COUCH: Okay. So this item is deferred.

PC-10 CULTURAL RESOURCES COMMISSION AND MAUI COUNTY HISTORIC DISTRICTS (C.C. No. 11-142)

CHAIR COUCH: And we're on our last item. Gosh, we might get done before lunch on this one. Alright, we're going back to PC-10, Members. Okay, to remind everybody, PC-10 is about Cultural Resources Commission and Maui County Historic Districts. And the Committee is in receipt of the following: County Communication No. 11-142, from the Planning Director, transmitting, in response to Resolution 10-43, a summary of the Maui, Molokai, and Lanai Planning Commissions' comments on a proposed bill to protect and preserve Maui County's historical districts by (1) clarifying the authority of the Maui County Cultural Resources Commission, and (2) providing protection of view planes, historic buildings and structures, and large trees within historic districts. And then you have a correspondence dated January 24, 2013, from the Chair of the Planning Committee, transmitting a revised proposed bill entitled, A Bill for an Ordinance Amending Chapter 2.88, Maui County Code, Relating to the Cultural Resources Commission, and Title 19, Article III, Maui County Code, Relating to Maui County Historic Districts. The revised proposed bill incorporates all the revisions we made by our Planning Committee in the 2011-2013 term. Members, I also wanna call to your attention to a correspondence dated October 30, 2012, from the Planning Director which was submitted after the Planning Committee's final meeting on the proposed bill last Council term. In October 30...in the October 30th correspondence, the Planning Director is proposing additional revisions. So, Planning Director, can you tell us what those additional revisions you're proposing are?

MR. SPENCE: Mr. Chairman, can we take a short recess?

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CHAIR COUCH: Sure. How long?

MR. SPENCE: Okay.

CHAIR COUCH: How long do you need?

MR. SPENCE: Three, four minutes?

CHAIR COUCH: Okay, four minutes. Thanks. . . .(*gavel*). . .

RECESS: 11:13 a.m.

RECONVENE: 11:19 a.m.

CHAIR COUCH: . . .(*gavel*). . . Will the Planning Committee meeting of January 31st please come back to order? Alright, Members, you have two...the last two things in your packet is an October 30th from the...correspondence from the Department of Planning. Those are their recommended changes. And then a January 24, 2013, from me, basically marked which is the legislation marked up as we left it when we left the, you know, the term. So these changes that are suggested in the October 30th letter have not been incorporated into the January 24th. Where we left off on this, essentially is on Page 10...or 11 now, which is Section 19.52.090H. And it's talking about, to preserve the many fine trees that now exist in the historic area that are deemed invaluable to the historical setting of these districts. Written approval from the Cultural Resources Commission shall be required before any fine trees can be removed. For purposes of this subsection, a fine tree means any tree over 50 years in age or any tree with a trunk circumference greater than 60 inches as measured at 42 inches above the ground. So that's the last thing that we were working on and we kinda came to a screeching halt here. One of the concerns is that, yes, we want to be careful with the historic trees, we don't want to lose them. Ms. Cochran mentioned that over again...over and over again, so and I agree with her. A lot of the trees have gone away. It's the Chair's concern that maybe if we start putting things about trees in all kinds of different bills, it might get lost. It's possible, and I think—I'll check with the Department—that Title 12 talks about trees. And in Title 12, we can put in there language about historic district trees unless anybody has any comments on that. Planning Department first, and then Ms. Cochran, we'll go to.

MS. McLEAN: Thank you, Chair. We did mention this section and another section of the proposed revised bill in our October 30th letter. On the last page, Page 4, where there are many wonderful trees in the County, not just in the historic districts, there've been concerns in your district, Chair, and in other places of trees being removed. We would prefer to see trees addressed through the Arborist Committee which, as you mentioned, Chair, is their duties and procedures are provided in Chapter 12.24A as well as their rules of practice and procedure. Also, as we noted in our letter, the Maui County Landscape Planting Plan will soon be...is being revised and will soon be transmitted to the Council for approval. And there's a process in there where significant trees are recognized and protected under the purview of the Arborist Committee. We

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feel that's a more consistent way to protect fine trees rather than singling out trees in just the historic districts.

CHAIR COUCH: Okay. Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you, Chair. And, yeah, I see the point, but I just feel that there is a need to emphasize, you know, and re-emphasize the importance of any trees in historic districts at this point. And that it ought to be not just vetted through arborists, but also through the CRC, you know, because of cultural significance, obviously; that's why the historical districts. And so I do have something that I wanted...I have an amendment here to make.

CHAIR COUCH: Okay. Did you pass that out to everybody?

COUNCILMEMBER COCHRAN: I believe everyone's got copies.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: And so I...you want my amendment?

CHAIR COUCH: Well we...

COUNCILMEMBER COCHRAN: Or is...we'll just...

CHAIR COUCH: We actually have a motion...do we have a motion on...we don't because it went away.

COUNCILMEMBER COCHRAN: Yeah.

MS. WILLENBRINK: Consensus...

CHAIR COUCH: Right. But I mean the whole bill has been done by consensus; we never did get a motion. Okay. So, yeah, that would be consensus to change that language if you wanted to.

COUNCILMEMBER COCHRAN: Yeah, I'm...so going back to where we left off, Section 19.52.090H. And I'm looking to have it read, any tree in Historic District No. 1 and Historic District No. 2 shall be considered an exceptional tree as defined in Section 12.24A.020 and shall be subject to the same protections of Chapter 12.24A as any other exceptional tree including enforcement, pursuant to Section 12.124A.100. And I'm adding, and to be reviewed and approved by the CRC. So there's an additional amendment to my amendment. Adding at the end of the section description, and to be reviewed and approved by the CRC. And this is just to add in oversight and overview of any tree --

CHAIR COUCH: Okay.

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COUNCILMEMBER COCHRAN: --in these historical districts to be...

CHAIR COUCH: Comments? Do you want...you're basically saying, every...any and every tree in the historic districts?

COUNCILMEMBER COCHRAN: Yeah, and that's limited to Lahaina and Wailuku at this point. So it's not like every tree across the County.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: So, yeah, just in these historical districts, they get vetted through arborist, but along with Cultural Resources Commission, too.

CHAIR COUCH: If they want...if they...somebody wants to do something to 'em?

COUNCILMEMBER COCHRAN: Right. They looking to chop it down or whatever, then at least it gets another, you know, oversight. Especially because cultural significance of trees, a lot of times, it may not have to do with the size and age, either. So that's why I just really looking forward to cover all bases, I suppose, in protecting of trees in these particular districts which are the historical districts.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

COUNCILMEMBER COCHRAN: Mr. Hutaff is here from CRC --

CHAIR COUCH: Yeah, we have Mr. Hutaff here if he...

COUNCILMEMBER COCHRAN: --as a resource person if you would like to hear his comments.

CHAIR COUCH: Okay. Would you like to hear his?

COUNCILMEMBER COCHRAN: Yeah, I believe it'd be helpful to have him --

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

COUNCILMEMBER COCHRAN: --share with the Members if no objections.

COUNCIL MEMBERS: No objections.

VICE-CHAIR VICTORINO: But, Chair?

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CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: Chair, if I may have your attention real quickly?

CHAIR COUCH: Sir?

VICE-CHAIR VICTORINO: I would also like to bring up Public Works, Mr. Goode. This has a profound effect, and he's now wanting to make sure that we understand the effect to him.

CHAIR COUCH: Come on up.

VICE-CHAIR VICTORINO: Okay, so I wanna hear Mr. Hutaff.

CHAIR COUCH: Big party.

VICE-CHAIR VICTORINO: I wanna hear because I have a funny feeling this is way more than we...meets the eye right here.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: Okay, thank you.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: Mr. Chair?

CHAIR COUCH: Yes, sir?

COUNCILMEMBER WHITE: It's not clear to me whether the recommendation from the Department was to remove H and put it in the...

CHAIR COUCH: That's what the Department's recommendation is I...it's my understanding, yes.

COUNCILMEMBER WHITE: Okay. And so then the motion was to...

CHAIR COUCH: There's no real motion at this point.

COUNCILMEMBER WHITE: Okay.

CHAIR COUCH: We're looking to see if...actually, Ms. Willenbrink, can we get a copy of this for everybody?

COUNCILMEMBER WHITE: And do we have the...do we have sections of 12.24A?

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CHAIR COUCH: It's being copied as we speak.

COUNCILMEMBER WHITE: Okay, good.

VICE-CHAIR VICTORINO: We have him reviewing in my Code book right now.

CHAIR COUCH: That's right. She's making a copy of it as we speak. Yeah, the Department would prefer us to take this out and just refer to any...I mean and add anything in 12 at a different...have somebody add in to 12 come up with some language in 12, Title 12, to deal with historic district trees; that's the Department's recommendation. Ms. Cochran, on the other hand, is asking to replace the existing H with what she sent in here. So comments from the Department?

COUNCILMEMBER COCHRAN: Mr. Hutaff's here.

CHAIR COUCH: Come down, Mr. Hutaff.

MR. HUTAFF: Thank you, Chair.

COUNCILMEMBER COCHRAN: Good morning.

MR. HUTAFF: Aloha, Members. Okay. I...based upon the conversations that we've had within the Commission and based upon things that have happened in the past, it didn't come before the Commission. And based upon comments from the arborists, I think we should leave it in from a cultural standpoint. The arborists do a fine job, even though they haven't been able to meet lately, all the time, to be timely about things. But they're about the health and welfare of trees and safety to public and all that kind of good stuff. The Cultural Resources Commission is based upon the cultural side of these trees. There may be a tree or two out there that may not seem to have any significance other than maybe it was a child of importance was named after that tree or even a event to happen by that tree. Let's just start with the Banyan Tree. We know we're never gonna cut that one down, okay. But from a cultural standpoint, even though it is not from the Hawaiian culture, so to speak, it is a very significant tree and important. And we would like to have a comment period or a say as to its cultural value. So leaving that part in there I think is most important from a cultural standpoint. Remember, we're talking about the CRC's say in these matters and, of course, the Arborist Committee has their say. So we're really looking at every tree in there, to keep every tree so that if it needs to come to us...and I think we're very responsible as a Commission, you know, we're certainly not gonna, you know, go out there and say, well, no that's been there 50 years, you gotta leave it there just because that. It's gotta have cultural value to us...

CHAIR COUCH: So when you say, leave it in there, are you talking Ms. Cochran's language or the language that's already in there?

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MR. HUTAFF: Ms. Cochran's language is actually what we pretty much came up with. She had her idea and I shared it with her, what we came up with. And they're almost identical, what we're talking about, every tree. Because the problem with size is, what about some coconut trees? You know, what about some other things that don't necessarily fit that size that, again, might have culturally significant importance. Or the ulu tree that might not get to be, you know, so many feet around. And ulu, as you know, in Lahaina was prevalent, and we don't got too many more. So I think that the Cultural Resources Commission needs to have a look at it.

CHAIR COUCH: Okay. Members, any questions for Mr. Hutaff or anybody for that matter?

VICE-CHAIR VICTORINO: Yeah, Chair?

CHAIR COUCH: Mister...

VICE-CHAIR VICTORINO: Yeah, you know, and thank you for being here. I agree that, you know, protecting trees culturally, significant trees. The problem I'm having in the first sentence is the word, "any tree in the historic district". I know for a fact in the historic districts, we've planted trees in some of the areas that are now causing problems, and Public Works will describe those issues with you, okay. So now "any tree", you know, gets to me right away, okay. What significant cultural issue? You'd have to really sell me on that, because I've been around a long time and I've seen a lot of these trees planted which now are making bad mistakes and breaking up our sewer lines and water lines and other stuff, but that's another issue. So I don't like to...right off the bat, I don't agree with "any tree in the historic district". Any tree, it gives no latitude, okay. You're saying, cultural, so there's a difference in words. "Any" means everything, in my mind; "cultural", now that's another story. So that's my question to you, how do you define "any" with the word, "cultural"?

MR. HUTAFF: You know, I certainly can't disagree with everything that you've said. Matter of fact, probably can't disagree with anything that you said. The only thing that we're concerned about is that, you know, we at least wanna have a look at the tree from a cultural standpoint. We're certainly gonna take in the value of the arborist, take in the value of what's going on with that thing or with that particular tree. Our problem is, when we sat down to try to define each and every tree that would be culturally important, we realized that the list would be so subjective and so difficult and so long that it wouldn't make any sense. And so we chose the term, "any", just so that it at least comes through us. I think that from experience with the Cultural Resources Commission, they're very astute, all the people there. I'm the only one who doesn't qualify for that. But they get it. And it would have to be, you know, have...we should have a say, okay. Even if that...say it's...just say, well, yeah, it's kind of important, not important or extremely important, and then the Department of Public Works needs to have their argument, along with the arborist, too; and then, from there, a decision is made. So I think "any" is probably not the best way to put it. If you want to change it to "culturally important", then we have to, the Cultural Resources Commission, have to prove it's culturally important. But even that is subjective.

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VICE-CHAIR VICTORINO: Yeah. Well, thank you. And I appreciate it. And, again, the word, “any” really opens up just a broad spectrum. And there are so many issues right now: South Maui, West Maui, even here in Central Maui. Right here in Waikapu, I’m having challenges with trees that are...so, you know, are they culturally sensitive, are they historic? You know, I mean I...you know, it’s something that’s around us all over. And I get the calls and I just don’t know if that one...I don’t wanna tie our Public Works and our arborists and other people with another layer of bureaucracy. Grant you, you may be very efficient and maybe you’ll get to ‘em real quick; but again, that real quick, is a month or two? And if it starts to damage somebody’s foundation like I had here in Waikapu and other things of that nature, how long can we wait? So, again, these are personal experiences I’ve had over the last six years being here with trees. And, again, I’m very sensitive to the fact that I want, I love and I’d like to continue to see as many trees as humanly possible all over this world. We need it. It is one of our natural abilities to keep oxygen flowing in our atmosphere.

MR. HUTAFF: And through some testimony from the arborist, they’re probably on your side as far as saving the trees versus worrying about sewer lines.

VICE-CHAIR VICTORINO: Yeah.

MR. HUTAFF: But I think that from, like I said, our experience and what we’re concerned about is some of the cultural aspects. And we’re only going by what’s happened in the past, okay. And we’re only talking about the historic districts, okay. And I have to plead the case that the Cultural Resources Commission, all the members, everything I’ve read for the last ten years and those chairs that had been on there, we kinda get what exactly what you’re saying, too. And so but if it’s not there, we have no say.

VICE-CHAIR VICTORINO: Okay.

MR. HUTAFF: And we’ve already seen that.

VICE-CHAIR VICTORINO: Thank you. I appreciate it, thank you.

CHAIR COUCH: Mr. Guzman?

COUNCILMEMBER GUZMAN: Oh, thank you, Chair. Just a few questions. Thank you so much for coming today and presenting your testimony, but I had...Mister...is it Mr. Hutaff?

MR. HUTAFF: That’s fine. Ray is really good, though.

COUNCILMEMBER GUZMAN: Ray?

MR. HUTAFF: Yeah.

COUNCILMEMBER GUZMAN: Well thank you, Ray. Does anybody on the Cultural Resources

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Committee present to the Arborist Committee in regards to your cultural experience and, you know, your determining a tree or anything like that? Do you ever go and testify in front of the Arborist Committee in regards to trees?

MR. HUTAFF: I can only speak for the term that I've been there, which expires in March, been there almost five years; and, no. But I can say that I have monitored what's before the Arborist Committee and Commission to see if there's anything that we should go and testify. The...one of the arborist members actually did testify with us at our commission meeting to support saving a tree.

COUNCILMEMBER GUZMAN: So there is a somewhat relationship between the two committees, that there is dialogue in terms of determining a specific tree could have cultural value and you do put input into...I mean you relay that input to the Arborist Committee, correct?

MR. HUTAFF: We would. We have not had the opportunity because nothing has really come up, but they have communicated with us. And I certainly can make it in what in my last meeting to comment to whoever's gonna...to the rest of the Commission and who's going to be incoming chair and vice-chair and to the Planning Commission that we do keep an eye on that so that we can give our input. 'Cause it helps them, too, to make decisions.

COUNCILMEMBER GUZMAN: Yeah, correct. So, under the Code, I believe for a tree to be designated as an exceptional tree, it has to be done by ordinance and thereby gone through the process of the Arborist Committee which has been assigned to determine whether it has cultural value or has some kind of size or...under the definition it says, aesthetic quality, rarity, location, things like that. It's their duty to determine whether a tree is exceptional with the...what you're telling me is with your input, they could determine the cultural value as well, correct?

MR. HUTAFF: I do not know, directly, what the Arborist Commission's rules and procedures are, okay, whether they actually do consider cultural value.

COUNCILMEMBER GUZMAN: Yeah. Well, in the Code, it says that they should specifically...I'll just read it. Exceptional tree means, a tree or stand or grove of trees with historic or cultural value, or which may...by reason of age, rarity, location, size, aesthetic quality by statute...be designated by ordinance as worthy of preservation. And so if you look at Section 12.24A.030, that is designated under the Arborist Committee to determine whether it's an exceptional tree or not, that's their duty, isn't it?

MR. HUTAFF: If you're reading there and it says, "cultural", we certainly are very happy about that, okay. And if that satisfies Elle and all of you as far as protecting, you know, the cultural values and resources out there just by the Arborist Committee or that they have to direct questions to us or have us appear there, I think that...doing it the way I just suggested would actually slow things down. Because this way, if it came to us or them first, we can make our comments and they can make their comments so the Planning Department would --

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COUNCILMEMBER GUZMAN: Right.

MR. HUTAFF: --come to a conclusion.

COUNCILMEMBER GUZMAN: But wouldn't you agree that we should look at each tree individually, tree by tree, and let the Arborist Committee determine whether it's an exceptional tree or not instead of going through a district and say, "all" and "any" trees should be automatically considered exceptional trees, or by ordinance, automatic?

MR. HUTAFF: I think because of the complexity of the different types of trees and the arborists' intelligence and information and the cultural value, yeah, I think it should go through both sides of it just so we don't miss something. You know, the way I look at something that's culturally value, okay. Is if we preserve it and we protect it and it's healthy and safe, a hundred years from now, someone's gonna say, wow, those guys are really smart. If we cut it down and chop it down and throw it away or tear down a building that's loss forever, in a hundred years, nobody will care or know, okay. I'm looking at it from the standpoint is that that's our history, too, okay. I would like to have my history remembered even if it's not so hot, okay, rather than forgotten. You see what I'm pointing out? At least an opportunity to have some input I think is very important. Just like what you guys are doing here, it's the input that you guys get that helps you make decisions. It helps you make good decisions. I like you guys, you guys make great decisions; and it's because of the input that you get. So can you allow us to do that same?

COUNCILMEMBER GUZMAN: Yeah, well, we like you, too.

MR. HUTAFF: Thank you, guy.

COUNCILMEMBER GUZMAN: Thank you. Thank you so much.

MR. HUTAFF: That's two out of...

CHAIR COUCH: Members, you know, after looking at 12.24A.020 definition that Mr. Guzman read off, do you think it might be feasible to say, if a tree is...has cultural value, it must be reviewed by the Cultural Resources Commission, in 12? Think that might be the place to put that? Ms. Baisa?

COUNCILMEMBER BAISA: I've been mulling this over ever since I saw the word, "any", because it kinda scared me 'cause I'm thinking about what size, what kind, whether it grew by itself or I planted it or, you know, how long it's been around or whatever. I mean "any", to me, is kinda scary. But now I'm on to another issue. What is a definition of a cultural tree?

CHAIR COUCH: Well this says, "cultural value".

COUNCILMEMBER BAISA: Okay, but what kind of cultural value we talking about?

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MR. HUTAFF: Well...

COUNCILMEMBER BAISA: Is it native Hawaiian only or is it other cultures?

CHAIR COUCH: Well that I know he mentioned—and Mr. Hutaff and Ms. Cochran can correct me—but the Banyan Tree is definitely a cultural tree, not necessarily native Hawaiian cultural tree.

COUNCILMEMBER BAISA: That's what I'm thinking about. So I don't...is there a list?

CHAIR COUCH: I think that's the issue. There really isn't a list, and that's why the initial thing was to say, well, let's define it by size; that isn't gonna kinda work out I don't think.

COUNCILMEMBER BAISA: No, the size won't work.

CHAIR COUCH: "Any", I think is maybe too encompassing, but I don't know, it's hard to say.

COUNCILMEMBER BAISA: Is a mango tree a cultural tree? I mean here in Hawaii it's our culture, we all love it, but is it a cultural tree? Or are we looking at something more grand like a monkeypod or a banyan or a...

CHAIR COUCH: But monkeypods are --

COUNCILMEMBER BAISA: You know what I mean --

CHAIR COUCH: --not cultural.

COUNCILMEMBER BAISA: --a nice big tree - a Poinciana tree, a shower tree. What kind of trees? I don't know how to define "culture".

MR. HUTAFF: Can I?

CHAIR COUCH: Yeah.

COUNCILMEMBER BAISA: And, yet, I'm a big fan of trees, let me tell you. I'm a member in the Outdoor Circle; I don't...I'm not advocating getting rid of them, but I don't want us to get into a legal morass here. We have enough of those.

MR. HUTAFF: I certainly do, you know, respect all of that. And I think that the 50-year term should be kinda left in there, okay. That kinda defines any 50-year old tree, kinda shortens it up a little bit. As far as culture goes, you know, we are the Maui County Cultural Resources Commission, we're not the Maui County Hawaiian Cultural Resources Commission, okay. And the thing is, too, is that if you go back past 50 years, we've probably taken all the different cultures – the Hawaiian cultures, Filipino culture, the Japanese culture and all that and combined it and made one more culture, okay. So it really is the historic value and the cultural value of that place. And

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even the smokestack in Lahaina which, you know, came before us; as whether we save it or not, has a cultural value, but it also has a landmark as being not so hot, a reminder of things. And that's really a good thing actually to remember what the not so good things are, but also remember how we all got along. So, no, we're not just limiting it to Hawaiian culture, not even close.

COUNCILMEMBER BAISA: Mr. Chair, follow up?

CHAIR COUCH: Ms. Baisa?

COUNCILMEMBER BAISA: I really like the suggestion that came from my colleague from Kahului. And, you know, I had a situation that happened in my own experience that I thought was...is important and relevant to what we're talking about. I was on the board of an organization here in Central Maui that had a very beautiful tree in the front yard; but that front...that tree in the front yard apparently produces a lot of nuts, and we have some similar over here in the County courtyard and it worries me every time I walk through that courtyard. And we had quite a few accidents on the premises, because people who are disabled and who can't see well or are not well balanced, when they walk through that, they slip and they fall, you know, they go forward. And we had several broken arms and several screwed up jaws and teeth and whatever. And, finally, we had to have an arborist come take a look, and his only recommendation was that we had to cut the tree. Because, you know, it was causing too much of a danger to the people that came there that had to be there every day, these were clients. And so, you know, I like the idea of possibly...the cultural aspect, obviously, is yours; but maybe the tree issue needs the input of an arborist. And would be nice if we could find, you know, a middle ground here, because I think the intent is the same for all of us. We do wanna preserve trees, nobody wants to go around cutting down trees; they're too important and take too long to grow and they're so beautiful and essential.

MR. HUTAFF: I agree with everything you say, and I believe that the Cultural Resources Commission also believes everything that you say. And you're talking about the kou. And I've actually planted seven kou trees, haven't chopped 'em down yet, soon, okay; but they're not in a cultural area.

COUNCILMEMBER BAISA: Right.

MR. HUTAFF: And I think that that's where, you know, we have to be culturally sensitive, but humanly responsible. And I think that at least we have an opportunity to make our case, that's all we're really asking for is just an opportunity to make our case to say, hey, you know --

COUNCILMEMBER BAISA: Don't cut it.

MR. HUTAFF: --well don't...well even the monkeypods. I mean, you know, he doesn't like monkeypods; and we learned a lot about monkeypods, that if you learned about it, you might like 'em, too. But it's also a cultural value because it was used as a shade for when the sugarcane

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oxen would come down. And then after that, when they went to the steam trucks, they used...they would cut parts of the tree to feed the steam, so it has a cultural value, okay. But it doesn't mean that it should be such a...that it's such a strong cultural value that we killed ten people a week, okay. We kinda get that.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: Mr. White?

COUNCILMEMBER WHITE: Thank you. Yeah, just a comment that I think it's been pretty well vetted so far that any tree becoming characterized or recognized as exceptional is a little bit difficult to support. I wanna protect the culturally important trees, I wanna protect the big trees because they provide a lot of shade. The challenge I have with the "any" tree is that if each tree in the district becomes an exceptional tree then, as an example, on a property we operate in Lahaina, we have a...it's not a regular monkeypod tree but it's a very close relative. And it's very trashy, it's not terribly attractive, we've left it there for a number of years; but we will be developing that property at some point. But if I cut that tree down or whoever cuts that tree down, is gonna be subject to a thousand-dollar fine by virtue of this even though there's no cultural significance to it or any kind of...well, I guess some people feel any tree is really beautiful. But by moving ahead with this, every single tree, whether it's five feet tall or 50 feet tall is going to be...if it's touched or not watered, by 12.24A.100, it becomes a thousand-dollar fine because every tree in Lahaina and Wailuku will be considered an exceptional tree; and I don't think that's what Ms. Cochran was envisioning. I think we all agree, we wanna protect the culturally valuable trees and...but it would be nice if we could have a...have somewhat of a list of what makes them cultural. Maybe we need a tree inventory in Lahaina and Wailuku to say, these are the ones that are important to us. This one for this reason, it used to be the place where everyone met under the tree and this one's important because it's one of the few remaining kou trees or few remaining ulu trees in Lahaina. But --

MR. HUTAFF: Can I?

COUNCILMEMBER WHITE: --without that...if you'd like to...

MR. HUTAFF: Again, I kind of, you know, understand everything that you're saying there, and I don't think the Cultural Resources Commission is inclined, I don't think it'll ever be inclined, to, you know, just blatantly say, no. The 50-year thing I think needs to be added in there. And the 50 year perpetuates itself, okay. Which means that if we were to all of a sudden take Makena and it became a historic district and it would follow under our purview, there are a couple of old fishponds there that are just full of the kiawe, okay. And all of a sudden they would become under our purview. But because, in that particular area, the fishpond is more culturally important than the actual kiawe tree, I believe that the Commission, based upon things I've heard, would say, take it out, okay, which would satisfy something that you're concerned about. If it has no cultural value, okay, it has no cultural value. We don't have an argument about why that tree's important, okay, or anything else like that regardless of its size. This is again, yes, you are gonna

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have to put some trust in the Cultural Resources Commission. But because we are a cultural resources commission, we're not arborists, we're not developers, we can only look at it from that standpoint. The building out here was brought to us, so we saved the building because it was older than 50 years old. Well I brought a picture from Norfolk, Virginia that shows that same building and said it has no cultural value in here, okay, it's not that important. And I think the same thing will go along with the rest of the commissions throughout the years is that really what we're asking for is the opportunity to have a say rather than it just get cut down.

COUNCILMEMBER WHITE: Yeah.

MR. HUTAFF: And I think "any", believe it or not, okay, actually makes more sense to me than "cultural value" tree because then you have to define the culture. If it says, "any" and they come over here and they say, well, you know, it's a kiawe tree and it's been there for 60 years, we're not gonna go and take care of it. We're gonna say, could you please cut it down? I think we'll probably beg the arborist to get rid of it.

COUNCILMEMBER WHITE: Mr. Chair? Yeah, I understand where you're coming from. My concern is that the Arborist Committee only deals with trees that are brought to them for consideration. You guys are only considering items that are brought to you for development. But I don't, you know, I think we need to have a broader application of protection over the trees that we find important, but I don't see anybody stepping forward to say, we'll do an inventory and we'll come up with a list of culturally important and exceptional trees in each historic district. And maybe that's something that the Lahaina Restoration Foundation could do relatively quickly. So I would rather we go that way and say, this list is now going to be added to the exceptional trees list, and with that carries all the protections. My concern is that those trees that may be culturally important can get cut down without any problem because they're not coming...if it's on a property that's not coming to you for review and has not been submitted to the Arborist Committee. So, you know, I'm still very concerned about saying, "any tree", because then all of a sudden, everything is...every single tree no matter what it is, is protected in that district. And I think that's just a bit of an overreach.

CHAIR COUCH: Ms. Cochran --

COUNCILMEMBER COCHRAN: Thank you...

CHAIR COUCH: --and then Mr. Guzman.

COUNCILMEMBER COCHRAN: Thank you, Chair. I think the "any" part is just that. It's prompting review for all. And if it's a haole koa tree that somebody believes it's something special, it's gonna come through CRC and Arborist and they're gonna go, but, no, it's a weed. You know, I mean at least it'll go to a review, it'll go through, you know, get vetted out, public can put input or whatever, so I think that's why the "any". So, yeah, it sounds really broad and, you know, broad brushed stroked, but it's, again, just in the historical district and thereby any...if we have any doubts, is it or isn't it, well here we go. This is the process it's gonna go through to get

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vetted to be determined. And, you know, this Arborist Committee was supposed to have done an inventory. You know, it says it in 8. I mean what happened to that, and who's held of responsible for them providing this list of exceptional trees? It hasn't been done. And Ms. McLean wants to comment, but I'm just saying that this is one way, until that occurs, this is one way to protect good ones, bad ones, you know, I mean and it says in here that if it's dangerous or diseased, you know, and just because it's deemed exceptional, it needs to go. And I'm sure that's where Public Works is gonna chime in and say, hey, it's detrimental to whatever, whatever infrastructure, sorry, but it's gotta go. And I'm sure CRC and Arborist agree and we're gonna agree with such common sense approach. So at this point, you know, I just somehow wanna come to a consensus, agreement, whatever where Mr. Hutaff and the Commission can have some kinda say and just...and, you know, and it's just in the historical districts. We're not...South Maui I don't believe has historical --

CHAIR COUCH: No.

COUNCILMEMBER COCHRAN: --Upcountry, wherever. So it's just these areas and, yeah, it'd be wonderful to have an inventory, but at this point we don't; and this is why, trying to address it this way. So that's my comments there, Chair, thank you.

CHAIR COUCH: Okay. Ms. McLean, you wanted to respond?

MS. McLEAN: I just wanted to point out that in early 2010, the Council passed an ordinance updating the list of exceptional trees in the County. I don't know what the impetus was to put this matter before the Council at that time. I don't know if it was initiated by a Council member or from the Parks Department or from a community group, but it's not as if the issue has been dormant for many, many, many years. It was looked at not even three years ago by the Council. And in the bill for an ordinance that adopted this, it indicates that new designations were added and some trees were removed because they were dangerous or diseased beyond repair. So it does look like the Council, at least in early 2010, gave consideration to adding and deleting trees from that list. That's all I wanted to point out. Thank you.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Mr. Hopper, I...Mr. Guzman's next, but Mr. Hopper?

MR. HOPPER: If...

COUNCILMEMBER GUZMAN: Thank you, Chair. Although I agree with my colleague's passion in regards to the trees, I do wanna point out, in the language itself in the amendment, it gives no credence or option to refer it to review to a committee. The language used in this amendment, it shall be considered an exceptional tree. The wording "shall", by legal technical wording, there is no review, it's automatic; it *shall* be an exceptional tree. So just, Chair, just a clarification that

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there is no review process here, it's going straight from "any tree" to an "exceptional tree", *shall* be. Thank you.

CHAIR COUCH: Okay. Mr. Hopper?

MR. HOPPER: Sort of along those lines, by using the term, "exceptional tree" rather than, you know, some other way of designating the trees, it has a specific term and a specific definition in the Code as was recognized. But there's also a specific process and certain consequences for designation of an exceptional tree that go beyond just the CRC's review or other review. It states in 12.24A.030.C.8 which is a very important section that the committee, being the Arborist Committee, shall establish a list of exceptional trees in the County. A list of exceptional trees shall be adopted by the County Council and shall be deemed incorporated by reference to this section. The procedures for designating an exceptional tree are as follows. Then it goes through a specific set of procedures. It says, the committee shall recommend to the County Council for its adoption any addition to the exceptional tree list. It then states, the committee, on at least on an annual basis, shall re-examine the designated exceptional trees, and essentially can recommend changes to the Council. That's probably what Deputy Director McLean was referencing. And it also states that upon designation by the County Council of an exceptional tree, the committee shall notify the property owner and/or the occupant of the property by registered mail that such designation has been made. Notice shall also be filed with the Bureau of Conveyances stating that the exceptional tree has been so designated. So I...it does appear that the Arborist Committee, for additions to this list, needs to hear the addition and, you know, in addition to the Council's approval and that there's also this process of notifying the owner by the commission and, in fact, going so far as to record in the Bureau of Conveyances a form of notice that a tree on private property in some cases has been designated an exceptional tree. It would appear that would have to be done...if something like this was passed for every tree in the historic districts, in addition to that review by Arborist Committee, so I'm not certain if this is something that the exceptional tree language is something that could be done by the Council in conjunction with this particular ordinance. Deputy Director McLean also pointed out that there is a section dealing with trees, and I believe one of the...the Historic District No. 3—was it Wailuku area?—that deals...it's separate from exceptional trees that talks about certain tree issues and when trees can be I think removed in that case. But, again, I think this is...we're delving into an area that has a very specific, procedural set of steps for additions to this list that I'm not sure if just by adding this language, that would satisfy those requirements.

CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: Mr. Chair?

CHAIR COUCH: Mr. Victorino, you had a comment? And then Mr. White.

VICE-CHAIR VICTORINO: Well, I think Miss...I'll let Ms. Crivello go ahead because she hasn't said anything up to this point.

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CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: Or 'cause he never looks this way. He's always looking toward you.

VICE-CHAIR VICTORINO: I'll send him down to you, okay. Go ahead.

COUNCILMEMBER CRIVELLO: Thank you. I...do we have that list available, of exceptional trees? I guess that's my question. We do? Can that be defined as cultural valued trees, too, as...or is it noted as that of cultural value?

MS. McLEAN: It lists the specie of tree, the location, the landowner, a description and dimensions. It doesn't go...it...I don't believe it gives its age, it just gives the dimensions: the height, diameter and crown spread. But it doesn't give age or any other description of why it's significant, why...or, excuse me, why it's considered exceptional.

COUNCILMEMBER CRIVELLO: Is there a list for how we would identify trees of cultural value?

MS. McLEAN: I believe that the process is further refined in the Rules of Practice and Procedure of the Arborist Committee.

COUNCILMEMBER CRIVELLO: I see. I have another question.

CHAIR COUCH: Go ahead.

COUNCILMEMBER CRIVELLO: For the Cultural Resources Commission, when you deal with cultural issues, is it of Hawaiian culture, is it of local culture, is it of the past history of...or history regarding the plantation culture? How would you define your role as a member on the CRC in regards to culture?

MR. HUTAFF: Yes. Okay. We actually have, in part of the PC-10, the very first part, we try to define culture resource. To answer your question, that question is so broad that every time we look at an issue that comes before of us, we try to determine if it fits within our definition of culture in Hawaii. Which doesn't mean Hawaiian culture by itself, it means all cultures. Korean culture, okay, if you wanna use an example that we don't always hear about. Japanese culture? Absolutely. Chinese culture? Absolutely, okay. Culture, again, we tried define it in the very first part of PC-10, it should be on there in there, so that it would be very clear as to what a culture resource is. And that's the best we can do, you know, our own individual definitions of culture comes from each member. And that's what we participate in just like if something comes to us about tree, is it culturally important? I may not even know the tree, but somebody else might and so they can input. If nobody knows and it is culturally important, unfortunately, we're gonna say it's not because we don't know.

COUNCILMEMBER CRIVELLO: Mr. Chair?

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CHAIR COUCH: Yes?

COUNCILMEMBER CRIVELLO: I only ask that so I can have a more defined understanding of “any” trees as far as coming from the CRC. And, to me, if you’re looking at age as something cultural, then it should specify instead of “any” tree; that’s just my opinion.

MR. HUTAFF: How about native?

COUNCILMEMBER CRIVELLO: Well, if you’re gonna define it as such. And maybe what we do need is a list of the exceptional trees that may be in the historic areas that you want to consider preserving. And I think the collaboration with the arborists will not do any harm or likewise or with CRC.

MR. HUTAFF: If I were to make a comment on that, Chair?

CHAIR COUCH: Uh-huh.

MR. HUTAFF: Okay. You know, the issue that I personally look at...

CHAIR COUCH: Mr. Hutaff, please use the microphone.

MR. HUTAFF: The issue that I personally look at and I believe that most of the commissioners, though I can’t speak for them, okay, is that having something come before us is just the opportunity, it doesn’t mean it’s final, okay. If it doesn’t come to us, then there’s no opportunity. Just like if nothing comes to you and you have no opportunity to make any kind of statements or good decisions or, you never have done this, bad decisions, okay. Did I say that correctly? Okay. But anyway, see the idea is is that what we’re trying to do is prevent things that have happened in the past, okay, from happening in the future with no review. And it’s...how important is it? The whole bill started off as about trees.

CHAIR COUCH: Uh-huh.

MR. HUTAFF: The whole reason is before you is about trees, okay. The whole defining culture started off with about trees, because it is at least important culturally. How to we find a tree that’s culturally? I don’t know. Come ask. We’ll go figure it out, okay. And that’s all, I think, the Commission’s really asking for is, the opportunity to comment, to recommend. We certainly aren’t going to challenge the Department of Works on saying, no, you can’t do something that’s the safety of the public. We have suggested, can you look at a different method before you cut it down, okay. But I think all we’re really looking at is can we just have a look at it? Because there are some trees, okay, in Lahaina Historic District or all across the island, but we’re only dealing with the historic district now, that have extreme value. There have been trees that have extreme value that have been cut down. There have been extreme trees as cultural value; and, yes, they were mango trees, okay, that were cut down ... *(inaudible)* ... opportunities for

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Lahaina...I mean people drove in. And those, we never had the opportunity to say anything about until it was chopped down. And once it's chopped down, *gone brah, no can*, okay. If it's come to us and we say that you save 'em and Department of Works and the arborist said, "sorry", we had a chance. And that's really all we're asking for is that opportunity to have it in the bill as part of the Cultural Resources Commission to take a look at. You guys are the ones that get to make that decision one way or the other. And personally, I'm gonna respect what you guys say 'cause you guys know more than me.

CHAIR COUCH: Members, I think we're gonna be...yes, Mister...

MR. HOPPER: I just wanted to also make the point, after doing some research since this is the first time I knew that the term, "exceptional trees" would be used in this ordinance, it was actually a State law definition and requirement. The State law states that the County committees, the Arborist Committees, shall have the following powers and duties in addition to those delegated by the respective County Councils. Number one, to research, prepare, and recommend to the County Council exceptional trees to be protected by County ordinance or regulation. Then goes on to define "exceptional trees" which mirrors the County definition. So, at this point, I would advise that without going to the Arborist Committee, I don't believe it's permitted at this stage to designate additional exceptional trees at this stage, seeing as the Arborist Committee has not actually reviewed those trees. I'm not saying there's something else the Council couldn't do dealing with trees in historic districts, but designating them as exceptional trees at this point without going to the Arborist Committee, appears problematic based on both the State and the County law.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Chair? Before you...I know you wanna go take lunch break, but we have Mr. Goode here and maybe he can come back after lunch. And he wanted to chime in on this. And I think it's very important to hear from Public Works because they have to deal with this in many aspects.

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: So I mean, with your permission, I'd like to hear from Mr. Goode.

CHAIR COUCH: Mr. Goode?

MR. GOODE: Thank you, Mr. Couch and Mr. Victorino. I'm kinda glad I stuck around 'cause I hadn't planned...I wasn't asked to attend this particular portion of your meeting today. And we have been dealing with a particular monkeypod on Front Street in trying to come up with a plan to deal with it. It is uplifting the sidewalk creating ADA issues and starting to uplift the road. And we don't have, at this time, we're still researching what we're gonna do. And we have...the arborist has, the County arborist that works for Parks Department, we've been consulting with him, and he actually asked the CRC for recommendations. And, actually, I was totally unaware

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of the issue until recently. But I am interested in the ordinance that's being proposed, the current language and also Ms. Cochran's language, mainly 'cause we have the roadways; but there's also many single-family homes in this district I'm pretty sure. You know, and potentially any tree, you know, could be someone's papaya tree. We issue building permits and grading permits all the time. I don't know if they're gonna have to be reviewed. It'd have to have, now, on those plans show all the trees that are existing in case we need to send them to the CRC. So I am definitely interested in what happens in the roadways and with trees. And, you know, for the record, we're for trees, we're for trees, the right trees in the right location. The wrong tree in the wrong location wreaks havoc on our infrastructure and it makes us run afoul of other laws like ADA. So, again, I wasn't totally prepared 'cause I wasn't expecting to be here for this. But what I see is that there's a lot of, in this bill, a lot of changes to the CRC which seem to be okay with everyone. We're focusing on a section here that probably needs a lot more research. And I would certainly like to have the opportunity to talk to my staff more about it. And so maybe one suggestion, Chair, as you take a break here is to pull this section out for future discussion later.

CHAIR COUCH: And, Members, with that --

VICE-CHAIR VICTORINO: Thank you, Chair.

CHAIR COUCH: --one of the things I'm very seriously considering doing is just deferring this again until we can get some more input on this.

VICE-CHAIR VICTORINO: But, Chair?

CHAIR COUCH: Because there's all...a lot of other issues that the Department wants to do and I wanna get them consolidated into this as well. And then we can do one whole meeting on just this. Any comments, Ms. McLean?

MS. McLEAN: Thank you, Chair. And I think the Public Works Director's suggestion is a good one. I think we're pretty much finished with the rest of the changes to the bill. The language that we sent up was really clarifying. It...we had touched upon those issues and it was just what we felt to be clearer, more straightforward language. So if there is still the time this afternoon, I think we could move forward with all the rest of the language. And if the Committee wishes to just separate out this discussion, then we could all spend a little bit more time on the issue of trees.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Okay. Yes, Mr. Victorino?

VICE-CHAIR VICTORINO: I think I like that suggestion. And I'd like to separate this, you know. And I don't know if we need to go with all the other stuff 'cause I think we've kinda...we're okay all the way to this point.

CHAIR COUCH: Right.

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VICE-CHAIR VICTORINO: This has been the hang-up. And if we took this out and I don't know what we need to do to take it out, but somehow saying, we can refer this or defer this portion like we've done in other bills, pass the rest out, then we've gotta complete...and just this to be worked on. And some of us already eyes *wen* roll back when you said, the whole day about trees, you know.

CHAIR COUCH: No, I know.

VICE-CHAIR VICTORINO: Well some of us are, yikes. No offense to trees...

CHAIR COUCH: What I'm planning on doing is, we'll come back at 1:30, finish up around 2:00, 2:15 with everything else and then decide what to do with...so we'll be done by about 2:00, 2:15 if we come back at 1:30, if everybody gets back here at 1:30. So we're gonna break for lunch and we'll come back and hopefully be done within an hour. So without objections, we're gonna go into recess for lunch. . . .(*gavel*). . .

RECESS: 12:16 p.m.

RECONVENE: 1:34 a.m.

CHAIR COUCH: . . .(*gavel*). . . Okay. The meeting will come back to order. Alright, Members, one of the things that was suggested to me, and I kinda like the idea, and I'll just bring this up for your consideration. And that is that we pull out H at this point, get the rest done and then revisit H after we pass this bill and come down with some sort of definitive way we can deal with these...the trees. But the other stuff that is involved in here is very important as well and we wanna get that out. Then we'll come right back either as an item in this Committee or in Mr. Guzman's Committee and deal with the trees.

VICE-CHAIR VICTORINO: Okay. And, you know, Chair?

CHAIR COUCH: Any comments?

VICE-CHAIR VICTORINO: Chair?

COUNCILMEMBER COCHRAN: I agree.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: Yes, at this point.

CHAIR COUCH: But we don't wanna get...we don't wanna lose the tree situation, but --

COUNCILMEMBER COCHRAN: Right, definitely not.

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CHAIR COUCH: --but we wanna get this passed. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. On Page 12, there's another reference under F.

CHAIR COUCH: Correct.

COUNCILMEMBER WHITE: So are you suggesting we pull H from Section 14 and F from Section 15?

CHAIR COUCH: Yes.

COUNCILMEMBER WHITE: Okay. Do you need a...

VICE-CHAIR VICTORINO: Motion to do that?

CHAIR COUCH: No, I don't think we're gonna need a motion. We'd been able to do it by consensus. Everybody's okay with that?

COUNCIL MEMBERS: No objections.

CHAIR COUCH: So, Staff, you note that we're gonna take Section H out of Page 11 and Section F out of Page 12. Then what I'd like to do, Members, you have your October 30th --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --information from the Planning Department. Let's just go through each one of theirs. And with the January 24th version of the bill, real quickly and by consensus or any comments you want, we can get through these fairly quickly. These are just suggested changes to what we had already discussed just to make it more tight. Is that right, Ms. McLean? So, for instance, if you go to 19.52.020 which is on Page...searching...Page 3? Actually it's on Page 5, the bottom of Page 5. The first thing that they wanted to say is, under review of plans, the language that we have on our Page 5, they wanna replace it with what they have on number A. Any comments, objections to that? It's just tightening up the language, it looks like.

COUNCIL MEMBERS: No objections.

VICE-CHAIR VICTORINO: I don't see anything.

CHAIR COUCH: Okay. So we'll accept their version on A.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

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CHAIR COUCH: And then B, for Section B of the same which is on Page 6; for instance, if they demolish any building or structure as opposed to just “structure”. And modify “move”. So without any objections, we’ll incorporate their suggestions on B as well.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay. Hearing no objections, we will go with that.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

CHAIR COUCH: And, again, C. Some of those changes are...were already made. As a matter of fact, it looks like they’re already done. So, C, we don’t have to worry about ‘cause it’s all the same. And D, again, is all the same. So some of it did get incorporated. E, is fine; it’s the same on both pages. F is, as well, already changed; although, they did say, Director...they added “Director of Public Works” where they crossed out “Superintendent” and they added “Director of Public Works”. So without any objection, we’ll change the language as suggested in F.

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

CHAIR COUCH: And they wanna add a G. See, it’s pretty much the same. And I’ll just read G because it looks like a new...can somebody along on Page 6 to see if there’s any difference? Says, their suggestion, it says, within any historic district established in this article and for any building or structure of historic significance in the Lahaina Historic District National Historic District Landmark, the Director of Public Works shall not provide a building or demolition permit application unless a letter of approval has been issued by the Cultural Resources Commission or the plans have been deemed approved pursuant to Subsection 19.50.020F. So they tweaked that a little bit. So without any objection...actually, you know, it’s pretty much the same. So that’s okay. And H, they wanna add an H that says, for the purposes of this article, buildings or structures of historic significance shall be those that are more than 50 years old and that are deemed by the State Historic Preservation Officer to be eligible for listing in the National Register of Historic Places based on Federal criteria. Any objection with putting that in there?

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, hearing none, we will add that, instruct Staff to add that.

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COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

CHAIR COUCH: And what we'll do is before first reading, of course, it will have the fixed...everything that has been fixed and cleaned up.

MS. WILLENBRINK: Chair?

CHAIR COUCH: Yes?

MS. WILLENBRINK: Point of clarification. G is going to be changed, also.

CHAIR COUCH: Correct.

MS. WILLENBRINK: It is changed so...

CHAIR COUCH: Yeah.

MS. WILLENBRINK: Okay.

CHAIR COUCH: We accept G. Alright. The next one which talks about Section 11, 19.52.050 and that is on Page 7. They are saying pretty much the same thing, the Cultural Resources Commission shall not issue a letter of approval for the demolition or moving of a building or structure of historic significance except in one of the following instances. Okay. But without objection, their changes there, they're talking about "Director of Public Works" versus "Director" and then added "building" as "building or structure". So without any objection, all the changes that they wanna do on 19.52.050 we can do. Any objections?

COUNCILMEMBER WHITE: No.

COUNCILMEMBER COCHRAN: Wait.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: I have a question.

CHAIR COUCH: Certainly.

COUNCILMEMBER COCHRAN: The part of low priority. How's that determined? Who...

CHAIR COUCH: Where, what line?

COUNCILMEMBER COCHRAN: Three...we're on 19.52.05, No. 3.

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CHAIR COUCH: Okay. The building or structure is of low priority?

COUNCILMEMBER COCHRAN: And, its retention would not materially contribute. So just...

CHAIR COUCH: Yeah, that's what we all agreed to in...when we went through it—I'm sorry, not we all, Mr. Guzman and Ms. Crivello weren't here—but when it went through the last iteration --

COUNCILMEMBER COCHRAN: Uh-huh.

CHAIR COUCH: --we had talked about that and that's the language...they just added the "Lahaina Historic District National Historic Landmark". They added that language there. Go ahead.

COUNCILMEMBER COCHRAN: Okay, yeah. If I can just get...refresh my memory then.

CHAIR COUCH: Sure.

MR. SOLAMILLO: Hi, my name is Stanley Solamillo; I'm a Cultural Resources Planner. When we do an inventory of any historic district, they are...the buildings are actually rated, and they're rated high, medium and low priority buildings. High buildings are...or high priority buildings are buildings which are fully intact and have all their...all the necessary elements such as windows, doors, roofs, external cladding, et cetera. Medium priority buildings are buildings which may have incurred some alterations over time; and those alterations can include things that happens such as additions, changes in windows that happen all within a 50-year period because we move the significance as the threshold for Federal districts which is based on a 50 years of age or older. And then for low-priority buildings, those are buildings that are historic, but they've incurred enough alterations that they may be borderline. Sometimes they may be reversible, but oftentimes the owners choose not to reverse the changes. Or they may be outbuildings and buildings like that.

COUNCILMEMBER COCHRAN: Okay.

MR. SOLAMILLO: So those would be low-priority buildings.

COUNCILMEMBER COCHRAN: Okay, thank you Stan. Thank you, Chair.

CHAIR COUCH: Okay?

COUNCILMEMBER COCHRAN: Yeah.

CHAIR COUCH: Alright. So without objection for everything in 19.52.050, A, we'll make those changes. No objection?

COUNCIL MEMBERS: No objections.

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COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

CHAIR COUCH: Okay. Alright then, B, it looks like they wanted replace B from the language that we had worked on that says...well the language they want to change it to it says, unless waived by the Cultural Resources Commission, any building or structure of historic significance that has been approved for demolition pursuant to this section shall be recorded according to the Secretary of Interior's Standards for Mitigation which shall include a Historic American Buildings Survey or Historic American Engineering Record as applicable. Can you tell us what you meant by that and why?

MR. SOLAMILLO: Prior to 2005, we typically...or the Commission would typically recommend that photographs be taken of historic buildings. We were losing buildings at that time at a rate of 50 or more historic buildings in the County as well as major sugar mills. And, actually, SHPD at the time was—and I'll have to be careful how I word this—was probably a little remiss in accepting photographic documentation when we had significant properties which were being demolished. So the Commission has gotten concerned that you're just demolishing buildings and were not creating any kind of record. And once the cultural landscape changes, because for islands such as ours we have a limited amount of buildings, and once they all go your whole cultural landscape changes. And the Commission felt that it was important to do a record or keep records of these buildings. For plantation houses, usually it entails a floor plan, a four-by-five photograph and some kind of write-up on who lived there. And this is becoming more important when we see the properties of native Hawaiians which are going up for sale and being purchased by people who don't intend to rehabilitate the building, so you're losing all of this information. And what we've found is this is the best way, at least to create a record, so that we have a record that people can access later on in time.

CHAIR COUCH: Okay. Did that answer everybody's question? Alright, without any objection, 'cause there is significant difference in the language, but I think I like Mr. Solamillo's explanation in the language better. So without objection, we'll accept B. No objections?

COUNCIL MEMBERS: No objections.

COUNCIL MEMBERS VOICED NO OBJECTIONS. (EC, SC, DG, MW, MV, DC)

ACTION: AMEND.

CHAIR COUCH: Okay. So, Staff, that's all the changes that they suggested. They...there's a couple more articles that's all about the trees, and we talked about the trees. One of the things that I did find out, though, by the way, Members, that if a tree is determined exceptional tree and it is in your yard or whatever, I guess you get a tax break for it. So, all of a sudden, the Historic District 1 and 2 would have all tax breaks. So I think we have to study that issue a bit more, and

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we will do that. I think the best way, Staff...I don't know, Members, what do you think? Should this go to...stay in this Committee or go to the EAR Committee, 'cause I think they have something about exceptional trees already?

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Yes?

VICE-CHAIR VICTORINO: I think, you know, if you're gonna ask that question, being that we're dealing with this in two committees, I would say if you wanna send it to Mr. Guzman's Committee, I'd have no problem either way. I think if we wanna have a thorough Planning discussion, then it's gotta be held here. But if you're talking sending the parameters to be sent back to here, then maybe you wanna then have it in Mr. Guzman's Committee. And then once that's been completed, bring it back and incorporate it with what we're planning...what we're trying to do for Planning.

CHAIR COUCH: That's right, 'cause this is part of our --

VICE-CHAIR VICTORINO: Yeah, we still gotta . . . (*inaudible*) . . .

CHAIR COUCH: --Chapter 19 that we have to deal with.

VICE-CHAIR VICTORINO: It has to come back to us.

CHAIR COUCH: Alright. So we'll instruct Staff to...well we'll leave this open. Yes?

MS. WILLENBRINK: Chair, clarification on the 19.52.100 that I put up there. That was the F --

CHAIR COUCH: Right.

MS. WILLENBRINK: --and you asked to remove it. That is language already in the County Code and it is related to the Wailuku Historic District not Lahaina.

CHAIR COUCH: Oh, okay. So, Members, on 19.52 --

MS. WILLENBRINK: Maybe just leave it as is.

CHAIR COUCH: --.100F that we talked about removing, we wanna leave it as it is in the current Code, 'cause it talks about Wailuku's trees.

COUNCILMEMBER GUZMAN: Where is that now, Chair?

VICE-CHAIR VICTORINO: F.

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CHAIR COUCH: Page 12, F. We're gonna leave it as it is in the current Code. It says, protection of trees, the purpose of this regulation is to preserve the many fine trees that now exist in the historic area and that are deemed invaluable to the historic setting of the...this district. Written approval from the County Historic Commission shall be required before any large tree can be removed. A large tree shall be defined in this subsection as any tree with a trunk circumference greater than 60 inches. So that's...

MS. WILLENBRINK: That's for Historic District 3.

CHAIR COUCH: Right. Okay. Alright. So the Chair will entertain a motion then.

COUNCILMEMBER COCHRAN: So, Chair?

CHAIR COUCH: Oh, yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Just a little...so where...how could it be addressed just...I mean if we're gonna pull out the whole tree situation here and, you know, to expand it more so than just historical districts? I mean I know it sounds like a big can of worms, but, you know, if we're gonna just pull this section out right now and then deal with trees in general just to share some...show or put forth some type of protection even if they're not in historical districts. I don't know how far...

CHAIR COUCH: Yeah, that's kinda what we...that's kinda what we're gonna try and do --

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: --is get it both in and out of the historic districts and --

COUNCILMEMBER COCHRAN: Yeah.

CHAIR COUCH: --and also throw the cultural --

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: --aspect in.

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: We definitely wanna be able to do cultural trees. And if it means we have to do an inventory of all the cultural trees in District 1 and 2 then we can. We do have a list already.

COUNCILMEMBER COCHRAN: Yeah. Well I'm gonna go walk and start my count now. Anyways.

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CHAIR COUCH: That'll be your subcommittee chair. You wanna do a TIG for that? Alright, Members, if there's no further discussion...anybody have any further discussion on this? We worked on it. Yes, Mr. Hopper?

MR. HOPPER: I'd just like, as usual, the authority to have...to do certain non-substantive amendments. We may need to, in that one definition of "historically significant", and move it to another section or make it broadly applicable as was intended, I think, by --

CHAIR COUCH: Right.

MR. HOPPER: --the, you know, just a...I think that's typical, but I think we usually have that on the record, though.

CHAIR COUCH: Right. Well, we haven't made the motion, yet. We were gonna do that. Alright. So, Members, if there's no further discussion, I'll entertain a motion to recommend passage on first reading of a revised proposed bill entitled, A Bill for an Ordinance Amending Chapter 2.88, Maui County Code, Relating to the Cultural Resources Commission, and Title 19, Article III, Maui County Code, Relating to Maui County Historic Districts, and to allow Staff to make non-substantive changes and the filing of County Communication 11-142.

VICE-CHAIR VICTORINO: So moved, Mr. Chair.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: I have a motion from Mr. Victorino, second by Mr. White. Any further discussion?

COUNCILMEMBER COCHRAN: This means separating out H and F?

CHAIR COUCH: Yeah, H.

VICE-CHAIR VICTORINO: No, only H.

COUNCILMEMBER COCHRAN: Oh, just...oh, we're leaving F?

CHAIR COUCH: Right, we're gonna leave F in --

COUNCILMEMBER COCHRAN: Okay, just H.

CHAIR COUCH: --because it's already in the Code.

COUNCILMEMBER COCHRAN: Got it.

CHAIR COUCH: And I guess we're gonna instruct Staff to...we'll do a PAF for Mr. Guzman's Committee and then ultimately back to us.

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MS. WILLENBRINK: Yes, we can draft a PAF. It would be up to the Council Chair --

CHAIR COUCH: Okay.

MS. WILLENBRINK: --what Committee it goes to.

CHAIR COUCH: You got it. But that's something we don't wanna let fall through the cracks. And I'm sure Ms. Cochran won't let us...let it fall through the cracks. Alright. Any further discussion? All those in favor of the motion, please say, "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: All those opposed? Okay. The...let the record show it's seven "ayes", zero "noes" and no Members "excused". Six? Six, I'm sorry, and --

VICE-CHAIR VICTORINO: Six of us.

CHAIR COUCH: --six of us, yes. And Council Chair Baisa --

VICE-CHAIR VICTORINO: Excused.

CHAIR COUCH: --"excused".

VOTE: **AYES:** **Chair Couch, Vice-Chair Victorino, Councilmembers Cochran, Crivello, Guzman and White.**

NOES: **None.**

ABSTAIN: **None.**

ABSENT: **None.**

EXC.: **Councilmember Baisa.**

MOTION CARRIED.

ACTION: FIRST READING OF REVISED BILL AND FILING OF COMMUNICATION.

CHAIR COUCH: Alright, Members, I believe that's the end of our agenda.

COUNCILMEMBER COCHRAN: Wow, earlier day...

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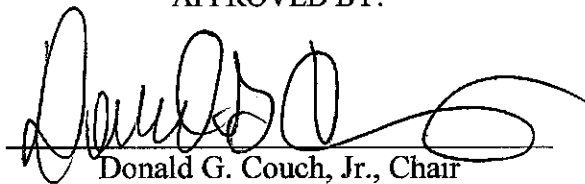
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CHAIR COUCH: I think it is. Earlier than I expected, but that's good. I appreciate all your help and all your discussion. Anybody else have any further comments? I think not. Alright. This meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 1:55 p.m.

APPROVED BY:



Donald G. Couch, Jr., Chair
Planning Committee

pc:min:130131

Transcribed by: Raynette Yap


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CERTIFICATE

I, Raynette Yap, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 19th day of February, 2013, in Kihei, Hawaii



Raynette Yap