

**HANA ADVISORY COMMITTEE TO THE
MAUI PLANNING COMMISSION
MEETING OF NOVEMBER 14, 2011**

** All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, Hawai'i. ***

A. CALL TO ORDER

**B. INTRODUCTION OF NEW COMMITTEE MEMBERS - IAN BALLANTYNE and
SCOTT CRAWFORD**

The meeting of the Hana Advisory Committee (Committee) was called to order by Chairperson, Lehua Cosma, at 4:12 p.m., Tuesday, November 14, 2011, Helene Hall, Hana Bay, Hana, Island of Maui.

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

Chair Lehua Cosma: Okay, the Chair would like to call the meeting to order. We have a quorum and I'd like to -- Clayton?

Mr. Clayton Yoshida: Good afternoon, Madam Chairperson and Members of the Hana Advisory Committee. I'm Clayton Yoshida, the Administrator of the Current Division of the Planning Department. We have our new members, Committee Members, Ian Ballantyne and Scott Crawford, and we'd like to welcome them to the Hana Advisory Committee. With me, from the County of Maui, we have your Deputy Corporation, Richelle Thomson; your Secretary to Boards and Commissions, Suzie Esmeralda; and our -- what is your title, Joe? Planning -- Administrative Planning Officer, Joe Alueta. And we have also our Hana member on the Maui Planning Commission, Ward Mardfin.

C. APPROVAL OF MINUTES OF THE JUNE 7, 2011 MEETING

Mr. Yoshida: I guess we have the approval of minutes from your last meeting of June 7, 2011, Madam Chair.

Chair Cosma: Okay. So we're looking over the minutes.

Mr. John Blumer-Buell: I would like to make a motion that we approve the draft minutes of June 7, 2011 subject to any corrections that may be offered.

Chair Cosma: Okay, Member Blumer-Buell made the motion. Do we have a second on the motion?

Mr. Scott Crawford: I'll second.

Chair Cosma: Okay, that was seconded by Scott Crawford. So all in favor of that -- oh, we need discussion, first?

Mr. Blumer-Buell: This is a long minutes and I wanna thank Suzie for getting those together. I have one -- only one correction, and this is on Page No. 16, and it's the middle of the page, and it's Mr. Hopper or Corp. Counsel, the line before that says, "you don't have to vote in favor if you second it." I would like to just correct the word in the sentence that says -- I said, "I would support the motion with the condition that Mr. Fasi read, and I think that is in line with what the applicant is thinking, and that will also address the biggest concern of the immediate," it says, "nature," and I would like it to say, "neighbor," and that's a really important context in there. In that particular application, the concerns of the neighbor were big concerns, so I just wanna be sure that it says "neighbor" instead of "nature," and that's all I have.

Chair Cosma: Okay, so Member Blumer-Buell made a motion to amend the minutes to change the language from "nature" to "neighbor" on Page 16.

There being no further discussion, the motion was put to a vote.

It was moved by Mr. Blumer-Buell, seconded by Mr. Crawford, then unanimously

VOTED: to approved the minutes of June 7, 2011 as amended.

Mr. Yoshida read the following item description into the record:

D. COMMUNICATIONS

1. **MAUI PLANNING COMMISSION requesting comments from the HANA ADVISORY COMMITTEE on Council Resolution No. 11-97 referring to the Lanai, Maui, and Molokai Planning Commissions A Draft Bill Amending Title 19, Maui County Code, and Section 3.48.305 of the Maui County Code Relating to Home-Based Businesses. (J. Alueta) (Referral made at October 25 Maui Planning Commission meeting.)**
 - a. **September 27, 2011 letter from Council Member Don Couch requesting that the draft bill be referred to the Hana Advisory Committee for review and comment.**

The Committee may take action to provide its comments on the draft bill.

Mr. Yoshida: And we also circulated an email from -- received on November 11 from Arabella Ark concerning this matter. Our Administrative Planning Officer, Joe Alueta, will be presenting the department's report. Joe?

Mr. Joseph Alueta: Good afternoon, Board Members. Again, my name is Joe Alueta. I'm your Administrative Planning Officer. For those who don't know me, my primary function is a liaison between the commissions as well as council, and I'm either drafting or analyzing and presenting bills that are either introduced by the administration, or by our department dealing with Title 19, or dealing resolutions that come down from council dealing with Title 19. As you know, if you all remember your "School House Rock," "I'm Just a Bill on Capitol Hill." There's two methodologies in which bills or amendments to Maui County Code Title 19 can occur is that it's either introduced by the administration, which is primarily the Planning Department, or by council.

And so, today, we have what we call a bill that's been introduced by resolution by the Maui County Council, and it's amending several sections of the county code. One is, primarily, dealing with Title 19 and the different land uses as well as the definition, but also amending Title 3.84, which is establishing tax code. So your primary role just to provide comments back to the Maui Planning Commission, and they will have the official duty of sending back the comments. Traditionally, Hana, because its isolation and its uniqueness, the Maui Planning Commission likes to hear from you as to how this could affect the Hana region or East Maui region, in particular. I do know that, in the past, there has been a lot of discussion with regards to the commercialization within Hana because there's very limited commercial space for Hana residents or East Maui residents, and so you kinda have a hodge-podge of methodologies in which commercialization or people can start businesses, and it's more than just fruit stands, and we've processed many permits through this board for various things, including, you know, Vogel Auto Body, at one point, a variety of larger fruit stands or mini restaurants in some cases. So this kind of address -- will impact you because it will allow a certain economic opportunity but, at the same time, Hana has been very concerned over the character of its area and limitations on the commercial areas.

I'll quickly go down - hopefully, you all have the bill that was sent to you. Some of you may have gotten the link also in which you could have downloaded it directly from the county website. I did talk to a few of the members. So I'm just going to try to dive right in and go line by line through the changes.

So starting on the first page, it talks about 19.04, and this is, basically, the definition section of Title 19, and it just establishes a -- the use or the definition of what a home-based business is. Yeah, it should be Exhibit A in your -- as some of you may have recalled, the department, about a year-and-a-half ago, came through with amendments to the residential district in which we introduced a very similar home-based business in the residential district. That is up at council. And what they chose to do is, while taking up the

residential bills, they stripped out the portion of the home-based business and sent it down back to the commissions as a separate item and tried to take more of a holistic look or approach to it. So that's what you have. So they have a new definition.

Some of the comments that I have, as far as from the administration, our office, is that although there's a definition of a home-based business and it may be implied, it does not necessarily require that a person who's operating the home-based business lives in the home. So our concern is, theoretically, you could own a home, and you could rent it to somebody, and they just basically run their business out of it. They come there and then they leave. So there's no restriction that someone actually lives at the home to run a home-based business. And again, that concept or that concern is reinforced when you look at how home-based business is listed in the 19.08, which is the residential district. So your second section that you see down there where it says, "19.08.020," it says, "Permitted uses," and then you flip over to Page 2, the next page, and where it's added, it struck out "home-occupation" and put in "home-based businesses," and they put it in as a allowed use, okay. They didn't put it as an accessory use; meaning, you had to be doing one of these allowed use. They said a home-based business is an allowed use within the residential district. And so again, based on its contextual and where it's located in the bill, it would be considered to be an allowed use but you don't necessarily have to live there to do it.

Also, another thing is that, later on in the ordinance that they provide, they create this whole chapter on home-based business under 19.67, and it doesn't say anything about this home-based business being subject to the standards of 19.67, it's just listing it, and the only limitation is what it's defined as. So there's no reference back to or indicating that there may be other restrictions to running a home-based business.

Going -- some other amendments that the council is proposing is under Special Uses, they've -- on Item H on Page 2, they're doing like striking out like certain domestic businesses and putting domestic type businesses.

And then you have I, which is just -- they're eliminating, for some reason, "residential planned developments," so I don't understand why they're doing that 'cause it is listed. And they're putting in "specialized education." "Specialized education" is defined and so we have that in our code. And then they're also putting in "group instructions," you know, and they define what they're allowing under specialized -- I mean, excuse me, under "group instructions." And these would all require special use permits, and they be -- and if there was one within the Hana District, you would be a body in which the planning commission would send it to for review.

Some of the comments, if you look on the top of Page 3, it goes on with regards to group businesses -- I mean "group instruction." Some of the comments from staff members have

been it seems 8:00 seems a little late to be doing group instructions in a residential area, and it doesn't stimulate days of week, whether or not it could be all the time. And there's no limit on the lot size. So you may have a small home, you know, I mean you may have a home on a 4,000 square-foot lot in Kahului or Wailuku, and you're doing -- you're going to come in for a special use permit to do hula lessons, they -- at the same time, some of the members felt that why are you putting these limitations on it. Why not, because you're requiring a special use permit, let the commission decide what the limitations should be. So rather than have -- they're already preset within the code. Those, again, those are just thoughts from the staff.

On Page 3, going down, Chapter 19.67, and this is the new chapter that's being added by the -- or proposed by the council, and that is called -- it's entitled, "Home-Based Businesses." So all of this stuff that you see here is brand new. It's not in the existing code. So that's why it's not underlined or ramseyered like some of the other sections.

Some of the comments from the department or has on the proposal is, at the end of No. 1, where it says, "Only one person other than a member of the family residing on the premise of the dwelling shall be employed by the home-based business." So what if a non-member of a family lives on the property, can they be employed or are they not limited? So it wasn't clear.

On No. 2, "No more than 40% of the floor area of the dwelling unit shall be used for the home-based business." So 40%, from other jurisdictions that we've looked at, seems awfully high, and there's no cap. Previously, when we -- before this came about and before home-occupation came about, we limited it to, basically, 225 square feet or, you know, so many square percentage of your thing, but no more than 225 square feet of the home. This, basically, got a 40%, and so if you're looking at a, on average, most homes are 2,000 square feet, some of 4,000 square feet, and if you're looking at large-scale homes that are out there now today, a 40% with no cap is quite a large operation. So we feel that that should be considered. If the goal is to just leave it at 40%, great, but they should maybe consider a maximum cap on the square footage.

No. 3 says, "No group instruction classes or group sales meetings shall be permitted on the premise, except as provided by 19.30J," which was you're going back to that special use permit. So, based on that, you wouldn't be able to do Tupperware, you know, Avon, if you had those types of group sales.

Under, let's see, retail sales shall be limited to products produced by the home business. So, basically again, you wouldn't be able to retail stuff that you brought in. It has to be only stuff that you produce on the property.

On further down on No 7, it says: "All goods, sample materials, or objects used by the home-based business shall be stored within the dwelling unit, a garage, or accessory structure hidden from public view." So we're kinda confused on it because it says that the home-based business shall be limited to 40% of the floor area of the dwelling unit, and then it's saying that you can -- have to store -- it has to be limited to stored within the dwelling unit, and then it adds the garage and accessory, so we feel there's some type of conflict or confusion, so is that -- so is there unlimited amount of storage area, so if I wanted to -- is the home-based business not count toward the accessory dwelling. So can I have 1000 square-foot accessory farm dwelling and use that for my home-based business and it's not counted 'cause that's not the main dwelling unit and the 40% is only limited to the main dwelling unit because all of a sudden, they've expanded it? So there just needs to be a clarity on that, from the department's standpoint. That's our main issue is, you know, what can you do and where can you do it? Let's just answer those basic questions and then try to get to there.

And then going on to Page 4, comments from our enforcement division with regards to quiet hours. It says, "9 pm to 8 am," and then I guess they were concerned over that over the non-operational -- I guess there was a difference between the operational hours and the quiet hours, and so I guess they're just -- they wanted to get clarity on that, from a staff point.

Very interesting on "The following activities shall be prohibited," if you look under B, so these are prohibited activities, however, that's where they list where you can do automotive repair. So if you look at No. 1, it says, "Harboring," animal training of dogs, cats, and then No. 2 it says, "The repair of automobiles and other vehicles with internal combustion engines shall be restricted to no more than two at any time," so you've just put in an allowed use within an area that you just said was a restricted or prohibited area. So that's kind of a funny way of doing it. And so it limits to two repairs, so, again, going back to the 40% of the dwelling area, so are you -- so do you have to repair the automobile in your living room, or can you use the garage, or can you use an accessory -- so again, just clarifying like what is the 40% going to be if you're saying -- what's interesting about it is it's limited to internal combustion engines, so I can repair as many electric vehicles. You know, I fix golf carts, electric golf carts, that's what I do as a hobby, so I can have, you know, 40 golf carts in my yard. My wife only lets me have two, but, still, I don't think -- I'm not sure if that's going to qualify on the limitation. And again, like where are you supposed to do these repairs?

The catchall, I guess, is on No. 4, on B, it says, "The repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental effect or nuisance upon neighbors." Who is to determine that? That's left to Planning. And that's where, from an enforcement standpoint, it becomes tricky on what's considered a nuisance, okay. You know, a dog barking, you know, the police have certain standards on a dog barking. What is a nuisance effect of a guy running a planer or a dust sander, or something like

that? You know, it becomes very subjective and that's where, from a -- and again, this is going to be an allowed use, and we've talked about this before, it's like although a permitting process can be cumbersome, it does make it easier for enforcement; meaning, if someone has a permit, we know what the standards are and the conditions. If someone doesn't have a permit and they're doing something, we can always just say, look, we're not here to determine whether you're a nuisance or not, or whether or not you're a good guy or not, you can go to the planning commission and determine that, or the Hana Advisory Committee. But it puts the onus on them to come in, and so that's where the -- from the council's perspective, they're putting the onus on the Planning Department to go and enforce it against those who are a nuisance, and we understand that. In this type of economy, you wanna be pro-business as much as possible and to encourage small entrepreneurs. And so it's just a balancing act right now of where this putting the burden on certain -- of our department to put the enforcement to be strictly enforcing it, or do you put some burden on the operator to operate within a certain bounds.

Continuing down page -- on Page 4, you have, again, you got the Administrative rules, and then you also have Enforcement, under 19.67. Again, none of -- wherever they list it as an allowed use, again, they're going to list it as an allowed use as a home-based business, as a use, but they're not saying that it's subject to 19.67, and that's the biggest concern is just, for us, if you want 19.67 to be controlling standards for all home-based businesses, you should state that it's subject to that section of Title 19.

For the rural district, again interesting, instead of making it an allowed use in the rural district, they made it as a accessory use, so it's now an accessory use so in the -- which is better. That means someone has to be living on the property, or it has to be one of the listed permitted uses for you to be able to do the home-based business.

On Page 5, okay, when you flip over, Page 5, and you're still in 19.29, which is the rural district, and then you see down, it says, "Home occupations," and then it says, "B. Accessory Uses." And then it lists garage, you know, keeping of livestock, and then you get down to 7, they added "Home-based businesses."

Interestingly enough, they've amended: Stands for the purpose of displaying and selling agricultural, floriculture or farming products, provided that the products have been produced or grown on the premises, subject to standards 19.29, and then they deleted the section of "Goods produced off-premises are expressly prohibited," and so I'm not sure why they decided to delete that, but from an enforcement stand, they feel it should actually stay in the title.

And then going on to Section 6 of the proposed bill deals, on Page 5, it talks about dealing with the agricultural district, under 19.30A, and it as No. 14 as an accessory use so -- which is, you know, in the farm district, theoretically, your primary purpose in the agricultural

district is that you're running an ag business or a farm. That's the -- so in this thing, you could still do your farm business and you could have a secondary home-based business that's not related to -- not necessarily related to agriculture provided that it's an accessory to one of the allowed permitted uses.

Under Section 7, still on Page 8, they talk about 19.36, and this is the parking district, so your parking standards. And again, it adds home-based businesses as a use and then establishes a parking requirement of maximum two parking spaces provided that the parking spaces are utilized only between 9 a.m. and 6 p.m., which from an enforcement standpoint, we're going so does that mean you can't use those spaces for any other purposes, so if you have a party, no one can park in these two designated spaces during your off hours. So that restriction seems kinda odd so we didn't know, from an enforcement standpoint, again, they were trying to figure out.

And remember, I kinda represent like there's three divisions within Planning; there's Clayton's Current Division, the Zoning Administration if the enforcement arm, so when someone writes an ordinance, either they're going to have to process a permit through Clayton's Current Division, or if it goes array, someone has to go and interpret it and enforce and that's the Zoning Administration Division. So these are -- so I kinda collaborate with all these people to try to get the concerns of the Planning Department and from there ask -- so again, those are some of the Zoning Administration guys' concerns.

The last section or the last main section is Section 8, and this doesn't deal with zoning at all. This deals with the taxation issues of establishing a new tax, and that's on page -- Page 11 is the start of the chapter, and it talks about commercialization of residential, and this deals with the taxation of that. On Page 12, it says, "A parcel that has been granted a bed and breakfast permit, a transient vacation or rental permit, a conditional permit to operate a TVR or a home-based business, pursuant to Title 19 shall be classified as commercialized residential . . ." So it just says if it's -- if you are a home-based business, you're going to do it. Now, again, the enforcement standpoint, this is a use that's done by an allowed right so the tax department, Finance, they're going to drive around and say, oh, that looks like a home-based business or that doesn't look like a home-based business, and they're going to tax you. So, again, it's an enforcement standpoint. In talking with Don Couch, who was one of the introducers of the bill, he's the chair of planning commission -- I mean planning committee at the council level, I informed him of that and his intention was to somehow do some type of registration that someone would come in and register and whether that's a permit or what, he's looking at it as more a permit, but as it stands today, the way they've got the bill written, I've kinda highlighted some of the issues and concerns, and so, hopefully, we'll be able to get your comments tonight and see -- and we'll get those to the Maui Planning Commission so we can get this up to the County Council. Thank you very much.

Chair Cosma: Thank you, Mr. Alueta. I think we'll open now for public testimony if anybody wanna come testify. Please state your name for the record, please. Thank you.

Mr. Andrew Rayner: The notice of today's meeting came up to late for our recent business council board meeting. We would, obviously, have like to discussed it, and these matters are very important to the business council as they are to Hana business. We will talk about it and we would like, perhaps, to put in some more evidence, some more testimony, in due course, either to you or to the council, depending on the date at which you're going to submit your views to Wailuku. Is that likely to be within three or four weeks?

Mr. Alueta: Tonight.

Mr. Rayner: Tonight? Alright. In that case, we will not be onboard but we will send any views that we have to the council. I think I can tentatively say, in Don's absence particularly, the business council welcomes the bill. It would be very nice for businesses in Hana to have a legal basis of occupation of wherever they work out of. I got one or two, not very many specifics on it, if I can just quickly go through.

In Section 3, H., I'm slightly worried that this appears to disallow things like baking on behalf of a nonprofit, or lei making. Section 3, H. It says, "Certain domestic type businesses in the home that do not meet the definition of a home-based business," a home-based business has to have profit attached. I think it works alright if this section -- if the preamble is made subject to the preamble of the previous section. In other words, it applies to activities which already does businesses, which I'm sure you don't want to disallow nonprofit activities or the like.

Section 4, I'm slightly confused. I don't understand why No. 6, it says, "home occupations, under A, and under B, it says, "home-based businesses," at 7. Is "home occupation" still defined somewhere?

Mr. Alueta: Yes.

Mr. Rayner: Right. Okay. Because that definition, I'm not sure where it is. But I haven't quite followed that.

Mr. Alueta: ...(inaudible)... "home occupation" is currently defined and it's already been approved by the council ...(inaudible)...

Mr. Rayner: Okay. Is it not a little confusing to have the two definitions?

Mr. Alueta: That's the reason council wanted the home-based business. Yes, it is.

Mr. Rayner: Okay. And under the agricultural section, at 19.30A.050.B.14., where home-based businesses are brought in, I'm pretty certain we would like to see that moved to 050A and B, No. 9. In other words, not an accessory activity. That, essentially, disallows virtually all businesses on ag property and I, personally, can see no reason for that. If anything, businesses are less intrusive on agricultural property than on urban property, and our small holders need business in many many cases to support them running their small holdings.

Unidentified Speaker: ...(inaudible)...

Mr. Rayner: Yes. That is on Page 8, at No. 14, about one-third of the way down the page. As I say, I would like to see that section moved to the previous subsection A, at No. 9. I think -- I think that's all in terms of these specific points I've got. Sorry, one more. Under the tax point, do we have any idea what sort of tax basis we're talking about?

Mr. Alueta: Nope.

Ms. Cosma: Okay, Members, any question for the testifier? Mr. Blumer-Buell.

Mr. Blumer-Buell: This is just more of a point of information that the, you know, stick with it because it's going to be -- it'll be, I predict, well into next year before this will get to the council. So, you know, the Planning -- Clayton will know when the planning commission is scheduled. Keep showing up. The last bill that we looked at, which was the short-term rental bill, has -- is going to through a lot of changes since it reached the council, so that could happen to anything, you know.

Mr. Rayner: Thank you.

Mr. Yoshida: I would only add that the public hearing with the Maui Planning Commission, on this bill, is scheduled for December 13; Molokai Planning Commission, December 14; and Lanai Planning Commission, December 21. And then, like with the short-term rental homes bill, people can testify before the planning committee also and whenever the full council deals with this matter. So, you know, there's ample -- there's additional opportunities for public input at those stages.

Mr. Rayner: Thanks very much.

Mr. Cosma: Thank you, Andrew. Anymore testifiers? Please state your name for the record.

Ms. Arabella Ark: Hi. I'm Arabella Ark, and I'm short. I had three things that came to my attention. One was about signage. I don't have the pieces of paper in front of me, but

there was a note in there that there weren't to be any signs indicating home business. Is that correct? I wanted to bring up the point that in many many beautiful places around our whole country, people have gone into areas of Victorian homes or historic areas and they have very discreet, but very nice signs that it might be lawyer's offices in part of a building, it might be a hair dresser, it might be a massage therapist, but the public needs to know that there's a business going on but we don't need billboards or neon signs, but I would like to say that we need that aspect to be addressed.

The second thing was I didn't anything in there for the under two acres non-conforming ag land and, as is clear, if you're under two acres, you can't be a farm, and I just wondered if those parcels will be treated equally for the small business that's being proposed now.

And let's see, oh, the nuisance. I think "nuisance" is a fascinating word because I'm sure we can all be nuisances to someone in our lives. But when a complaint is made by a neighbor someone doing a business, I would like to see that both sides be heard before any action be taken against the business owner. So I think it's important that we don't just flat out say, oh, you're naughty, and you're a nuisance, and bye-bye," but we have an opportunity for both parties to be heard and more of a ho'oponopono situation that would be feel better, I think, to both parties. That's all. Thank you.

Ms. Cosma: I'd like to comment on that signage thing. I see that, you know, that's one of the problems. To me, for Hana, signage is so important. Maybe limit the size. And the reason I say that is when there is a business, people outside of Hana tend to end up the wrong places at the wrong times of the night, and that is a nuisance to the neighbors. So I think signage is important for people to find where these businesses is. I know that because I live in an area, there's a vacation rental, and I like my neighbors, but without signage, they don't know unless we tell them, you know, and that shouldn't be our duty. So I think having a sign, keeping it a limited size, would be helpful in our unique community. And that's one of my concerns was. Members, anymore questions?

Mr. Blumer-Buell: This is a question for Joe Alueta so that we can get it answered at this point. Arabella wrote a note -- a letter to us asking about non-conforming lots in the ag, so my question is: How would she obtain a permit for that and could she apply for a special use permit right now?

Mr. Alueta: As far as we're concerned, it's a non-conforming use, as far as the lot size in the ag district. The provision in the bill just says it's an allowed use within the agricultural district. So if she wants to do a home-based business, if this bill pass, then she would be allowed to. I currently do not see why there's a concern. I don't see it as being an issue.

Mr. Blumer: ...(inaudible)... be sure we had that clear, but my understanding is that if it's an accessory use, that you have to be doing agriculture and be in compliance with those

requirements first before you can do it as an agricultural use. Now, I just wanna be corrected if I'm wrong, but that would mean that Arabella would need to be -- would fall under the income requirements for a farm, and I think that's what we're wondering about.

Mr. Alueta: I can look at it more, but my recollection, if you're an existing non-conforming lot in the ag district, you're golden because the only thing that -- you get to do everything that's allowed within the agricultural district, and get your houses, and you don't really have to show your farming, or you're limited -- I mean you still have to show farming, but it's still based on a percentage, and the only limitation for non-conforming lot sizes is that you have a lot coverage ratio and setback minimum. So I don't see anything -- I mean if you're less than -- if you're ag zoned and you're a 10,000 square-foot lot, you'd still be able to do it provided that you're a farm. So you can still farm on 10,000 square feet.

Chair Cosma: Go ahead. You can continue.

Ms. Ark: Thanks. I did have one other thing. I was concerned when it said that you can use 40% of your home dwelling for the business, but not outlying buildings. So does that eliminate if you have a separate garage or a separate on your property that you can't use that for business?

Chair Cosma: Mr. Alueta?

Mr. Alueta: That's our issue too. We do not know what their meaning by it. According to the thing is that you're limited to 40% of the accessory dwelling and then you're allowed to use accessory structures for storage and other stuff so -- I mean it can get complicated and that's what we want the council to clarify because say you, you know for argument sake, you had a 4,000 square-foot house, okay, and you're doing 40% of the, okay, so you got 1600 square feet and so you're saying what if I do 600 square feet in the house and then you can have 1000 square feet in the accessory -- I mean how are they -- I don't know what they want and so that's the kinda question that we're going to ask council - what do you want? Yeah.

Chair Cosma: Go ahead.

Mr. Ian Ballantyne: ...(inaudible)... where it's talking about two cars being repaired, it would be rather unrealistic to expect somebody to use 40% of their garage for car repair, and so that would kind of add into that equation.

Chair Cosma: You know, we're still in public testimony, so when we reach board discussion, we can bring that up. Thank you, Ian. Anymore testifiers?

Mr. Robin Rayner: Hi. My name is Robin Rayner, and I'd like to thank you all for being here and representing Hana for the rest of the Maui community. I was quite excited to see this bill. I think that it's really really important for Hana and I hope everyone supports it. I had just a few comments. Regarding the -- my question was also about signage in addition to the two good point that had been made. I think that there are communities a little bit different in that we have a lot of tourists that come here via car for the day, and there are certain people that have businesses that cater to those tourists, and those tourists, unlike the local people who will know where to go, the tourists don't know where to go whether it's a shop, you know, something that's selling something or whether it's a rental property. So I think small discreet and I think there could be language written into this that requires a small discreet, perhaps a, you know, 18-by -- 12-by-18 signage that fits in with the neighborhood, something -- language to that effect, I think is something that is definitely would be important for Hana.

Also, I noticed that there was nothing addressing interim zoning and Hana does, I believe, have interim zoning and it may be something worth recommending to the planning commission that interim zoning be included in this as well as rural and agriculture, which is, of course, our main thing. And I just wanted to reinforce the idea of how important this is to Hana to have agricultural zone land have access to being able to provide -- have businesses on their land. So I did a little exercise, an example, and I looked at sort of the average size lots in our community, and aside from the county, state, ranch, you know, we're sort of like half-acre lots to 20-acre lots, so if I average that out, I'd say, well, maybe we're on average of 10-acre lot in Hana that's zoned agriculture, and of course our land is not flat, so of that 10 acres, maybe there's five acres that's actually agricultural land that can be used for farming, and this is an average of course. And so I thought about bananas 'cause we actually sell bananas, and I thought, okay, we sell bananas for about 65 cents a pound. The average cost to produce and get to market bananas is about 45 cents a pound. The next profit margin then is 20 cents a pounds. The number of pounds of apple bananas, which is what is common here in Hana, is about 12,000 pounds per acre. If I multiply that times 20 cents an acre, I come up with \$2,400 per acre. So my 5-acre farm nets me \$12,000 a year. The mean household income in Maui is somewhere about \$76,000 a year. So between my \$12,000 for my bananas and my \$76,000 that it really cost to live here, there's quite a large gap, and there's really no off-farm jobs here. I mean there's county jobs, there's a little bit, you know, there's the police, the fire department, road maintenance, parks department, there's the school, you know, there's a few things, but there's not a lot of off-farm jobs available. So there's also very little commercial space and the kind of businesses that exist here in Hana don't necessarily want to be in commercial space 'cause they're mostly businesses that wear a lot of different hats so you want to be at home; take care of the kids; run your business; you know, do your farming; whatever it is. You're doing a lot of things. So really our only alternative is to have home-based businesses so this is so crucial for Hana to have this, and I think because nobody's talking about a lot of money, to put too many restrictions or guidelines or permitting process

is or, you know, going through the planning commission or the Planning Department for permits is really going to be overkill for this community, so whatever we do, I think we wanna make sure that it's simple and clear and doesn't make everybody go through too many hoops 'cause if we do that, people aren't going to come, they aren't going to register, they're not going to become legal, and it would be really nice to see people in Hana being able to run businesses legally here. So thank you very much for the opportunity to speak.

Chair Cosma: Thank you, Robin. Any questions? If not, thank you. Anybody else wanna testify? If not, then we are going to close public testimony and open up for board discussion.

Mr. Crawford: Can I have a point of process? As we discuss this, do we like make individual recommendations or do we wanna try to come to consensus over certain points that will make -- that will actually pass motions to make recommendations?

Ms. Thomson: ...(inaudible)... since there are four of you, it has to be all of you. Right.

Mr. Crawford: So as we discuss, we're really aiming to come up with something that we can put into a motion and all agree on as an official record?

Ms. Thomson: Exactly. Well, and because it's a bit complicated, you can go through -- you could go through the proposed ordinance, and go point-by-point, and make your comments that way and gain consensus as you move forward 'cause that might be the easiest way to keep track of your comments.

Mr. Alueta: Traditionally, what we've done is we go by each section, so we'll start with Section 1, the chair will just ask if there's any comments or recommendations toward that, you just go right down for each section, and if you get all of the comments from all the board members, if there's no objections to any one board member's point or correction, the it's normally considered to be approved by consensus, and then you just do one section at a time, and just keep going back and forth, so you just -- and that way -- 'cause I don't want you to be flipping too many pages and, you know, one board member's got changes all the way through and you wanna stick to one section at a time that way the other board members can keep track.

Mr. Crawford: Thank you.

Chair Cosma: Because of the many different languages in this bill, it brings concern, so I really think we should take a good look at it, you know, if we're going to move on.

Mr. Blumer-Buell: I didn't hear that.

Chair Cosma: I was saying that the bill that we're addressing now, it kind of -- it brings great concern with the language to some of it that I think that needs special attention before moving it on from Hana, and that's something we can discuss as a board.

Mr. Blumer-Buell: Can I ask a question of our planner? Yeah, this is just -- I've got a couple questions for Joe to try to clarify the intent of this and, you know, excuse me on trying to understand this 'cause it's still not clear and maybe I'm not just getting it. On Page 5, under the permitted uses on agriculture, going on to Page 6, and it looks to me like, you know, that we have these allowable uses on ag land, and then when we get to B, we have the accessory uses, and several testifiers talked about this, I mean it appears to me that an accessory use would be subject to criteria 1, 2, A, B, C. Is that true?

Mr. Alueta: A, B, C?

Mr. Blumer-Buell: Yeah. In other words, we have on Page 5, we have the agricultural districts following uses and structures shall be permitted in the agricultural district provided they comply with all other applicable laws, so that's starts on Page 5. And then I guess my question is really what does, you know, under Section B, which is Accessory uses, it seems to me the accessory uses would be subject to No. 2, A, B, and C.

Mr. Alueta: No. That's only if you're looking to get a third farm dwelling.

Mr. Blumer-Buell: Okay.

Mr. Alueta: On lots that are five acres or more. So, basically, under the accessory uses, you're allowed two farm dwellings per lot and which one of them shall not exceed 1000 square feet. So, typically, what happens is, regardless of the lot size, if you're in the agricultural district, you can have a main farm dwelling and then a second farm dwelling, okay, and you come to the county and show that you're farming, and we require an agricultural plan, okay, and then we would -- so that's your -- you would show your accessory uses. In the case of large ag lots, right, the threshold to getting an additional farm dwelling - wink-wink - is you gotta have your -- you gotta show that you got -- you're really really farming. You're either making \$35,000, which can be done if you're doing certain crops, not all crops are going to do it, and -- or you provide -- you know you show -- you meet two of the following criteria. So you can either provide certification by the Department of Water Supply, so if you somehow proved to them that you got ag rates, or you have a farm plan that demonstrate the feasibility of a commercial agricultural production, so that may be -- so you don't necessarily need to meet the 35,000. So if the lady here is doing bananas, and she's got five acres, and she's showing that is doing as much bananas you possibly can on her limited square footage, and that's the commercial viability of it.

Mr. Blumer-Buell: So it's at that point that it becomes eligible for an accessory use as long as you're meeting two of the three?

Mr. Alueta: No. That's just to determine whether you get a third dwelling.

Mr. Blumer-Buell: Okay. No, I'm sorry if I'm a little confused but it's an important question.

Mr. Alueta: Right. Right. All you have to show -- you have to show that you're doing one of these principal uses.

Mr. Ballantyne: What's it doing in the bill for home businesses then? I don't see why it's there in that case.

Mr. Alueta: Because the council wants you to be able to do home-based businesses within the agricultural district and home-based businesses can't be in a principal use within the agricultural district unless it's ag. The state law requires that the only thing you should be doing agricultural lands for is for farming, or those listed uses under 205, and that's why it's under accessory uses. But chances are, if you have ag dwelling already, you've somehow, through the process, shown that you're still -- that you are farming. Now, there may be people who have -- haven't gotten an ag dwelling and their not really farming or do not meet the criteria even to have that ag dwelling, okay. They may not qualify for the home-based business. But if you are a legitimate farmer or you're legitimately doing one of the principal uses, chances are you would still qualify for the home-based business. Yeah, that was my question, I mean from a land use planner's side, we're not sure you should even have home-based business in the ag district. It's kind of because ag is ag. That's the principal use of it.

Chair Cosma: You know that 35,000, is that already in place?

Mr. Alueta: Yes.

Chair Cosma: It's already in place.

Mr. Alueta: Yeah. The only section of 19.30A, which is the county agricultural district, that's being amended, right, is where they're adding -- where they're doing, for some reason, they're re-spelling "Moloka'i" and "Lana'i" to take out the okina, and they're taking out the okina on "Hawai'i," and they're putting home-based business as No. 14. That's the only change in 19.30A. Correct. The ramseyered version.

Chair Cosma: So we have home occupation and we have home-based business?

Mr. Alueta: Correct.

Chair Cosma: Correct?

Mr. Alueta: Yes. Home occupation is already allowed. It's been approved, okay, and that came before the commissions and went up to council. And that was -- that, basically, defined where people who were doing home-based or home occupation were, you know, internet and stuff like that. The key restriction for home occupation and the differentiation between home-based business is that you didn't have employees, and you didn't have customers. That's the main thing. In this bill, home-based business allows for -- expands the types of uses, expands the area that can be done. But the key difference is it allows customers, okay. So the main target of this bill may be architects, attorneys, massage therapists, or, you know, counselors, or private consultants that basically have customers come to them two at a time. If you look at the restrictions, as outlined in 19.67, it limits how many people can come to you, okay, so it's going to primarily be for appointments - an architect meeting with clients going over plans - consultant meeting with clients to go over something, a massage therapist who has booked, someone has called and booked a massage, okay. It's not where you're going to have a sign out. The reason there's no signage is because it's not a retail outlet. It's not where you're going to put out a sign and you're trying to attract the tourist to come by or some unknown stranger to drive by who motoring along, oh wow, I'm lost in Waikuli and, oh, there's a, you know, Joe's knickknacks or, you know, it's not going not one of those. It's not Joe's bar and grill. That's not what this is for. That's not what this home-based business is for. It's not the way it's geared. And you have to be very -- this is kind of a change in policy with regards to the administration with how you deal with businesses. Throughout the ordinances that I've brought before and some of you have seen is that we've inserted residential uses in the business district, okay, so we're allowing apartments above the B-2, B-1 area. We've established SBR, which started in Hana, Service Business Residential, okay? We've also have B-1, you know, and again, it's very interesting how we're inserting, like I say, residential type uses in the business district. Now you're taking a bill where you're introducing business uses into a residential type area. So it's a little more tricky, from a land use planning, so the impacts have got to be reviewed, especially in this case where it's being done as by right, and not a permit or reviewed in some fashion. Like I say, home occupation was kinda like the toe in the door. Now people have said we want more expansion. The home occupation; then you had B&Bs; then you have transient vacation rentals. Those are kinda your toe in the door commercialization. Now they wanna expand it to allowing more commercialization in the residential. So you have to be careful. I mean you have to look at what the impacts are. And again, there needs to be a balance. Before it was all you have to come before the commission; do a public notice. It's a very -- it can be a very expensive and cumbersome process and the council is looking at: How do I streamline this? How do I make it easier for people to start small businesses? And I don't -- just like home occupation was one definition doesn't fit all, this is not going to fit all, and it's not intended to fit all, and that's where the -- everybody wants to stretch it out so that my business, I can do this business, and your business may not fit in this definition. You

may have to go, God forbid, to a business zoned area, or get your property rezoned to commercial. And so just look at that when you're debating what should be done. Remember, this is business use being injected into the residential or rural area, not the opposite way around. Not putting lofts above a commercial or industrial zoned area.

Mr. Ballantyne: Yeah, can I question on that?

Mr. Alueta: Yeah.

Mr. Ballantyne: Yeah. You did mention about the signage during that and said the purpose wasn't to have it so it could be seen, but then on Page 6, point 3, it says, "One agricultural products stand per lot, for the purpose of displaying and selling agricultural products . . ." What's the point of doing that if nobody knows it's there because there's no sign?

Mr. Alueta: You're looking at an allowed use. In the agricultural district, right? In the agricultural district, right, the main business -- agricultural district is a commercial agricultural district. You're supposed to be farming and selling products, and you can't -- selling farm or agricultural products that you've grown from your property, and you're reading from a section that's allowed. It's already permitted. You can put a sign up in the agricultural district. We're talking about signage for home-based businesses.

Mr. Crawford: ...(inaudible)...

Mr. Ballantyne: Yeah. Okay.

Mr. Alueta: But again, Madam Chair, the most coherent way to go through this is to just go section by section, starting with Section 1, and taking comments on the first section, and then if there's an agreement on that, the department will note those, and then once you've completed that section, just move to the next section and go basically each change from one section to another, rather than jumping around to, you know, different sections.

Chair Cosma: Okay. You agree?

Mr. Blumer-Buell: I agree with your proposal but this is like a general question going into this section by section review. My concept, when I read this, I thought, hey, no signs. That's great. And I thought the home businesses were to accommodate existing home businesses in Hana that the local residents already know about and use mostly. So there's lots of businesses that exist in Hana and there's lot of goods and services that are going on without permits and signage, and I thought that this was -- seemed to be a way to accommodate that without signage 'cause people know where the goods and services are; plus, an important part of this, and I'll discuss it when we get there, it seems to me a big

part of this is to raise tax revenues, so I'll save that for that part of it. But would you just comment on my idea that it's kind of to let home-based businesses go on without inviting in tourists and all that?

Mr. Alueta: I think my comments earlier about it's more for those small-scale businesses as a start up, but also that either have their clientele either know they exist and come to them already, as you said, existing, which it could possibly be, or it could be people who make appointments, a doctor's office, a chiropractor; somebody who's -- he schedules a massage there, but like I say, they have appointments. They schedule all of their visits ahead of time. And if you look at it, it limits it to two an hour, no more than - whatever it was - 12 or 16 a day. So it's not like you're opening up a, like I say, a hardware store and you got a baseyard. It's not intended for that. It's not intended to have you move your retail office, your retail business to your home. It's there to maybe have your home office of a professional or doctor or, like I say, low traffic area.

Mr. Ballantyne: Yeah, can I comment on that one? Yeah, I mean on this general point, Section 1, "Home-based business" means an enterprise or etcetera, which it includes or the provision of services, so presumably, it also, anything in this bill, covers anybody who does a home occupation because they are providing services on your previous definition. So why have we got two bills when the poor 'ole person who's doing a home occupation is now going to be covered by two bills?

Mr. Alueta: The home occupation would, basically, become moot, meaning because the home occupation has more restrictions and it's allowed as by right. And the same thing with this, this would be allowed by right. And I think what they're doing is that they're saying, for this particular bill, is that this will basically supercede home occupation.

Mr. Ballantyne: So there will only be one bill at the end of it? They'll withdraw the home occupation bill?

Mr. Alueta: Well, the home -- it's not a home occupation bill. It's a home occupation law. The law's already there. It already allows for home occupation. This is sort of an expansion, but you can't really call it "home occupation" when you're running a full-scale business because you're having clients and customers come there. I'm not sure what the intent is there.

Ms. Thomson: I think, you know, one of the differences might be in, let's see, residential, it look like it deleted -- this current version deletes "home occupation" and adds "home-based business," but residential and rural add it. They don't take away "home occupation," which is continued as an accessory use, I think. Some place that it might affect is whether or not it's changing your tax rate, whether you're changing to be commercialized residential or whether you still retain your homeowners extension.

Mr. Alueta: Thank you. That's probably why they're doing it that way so that if you're a home occupation, you won't get ding on the commercialization of your property. So say you were a person who did everything on the internet, or you're a telemarketer, or you just use it as your office and nobody ever came to your house, you would still be a home occupation and you wouldn't get taxed more.

Ms. Rayner: ...(inaudible)...

Chair Cosma: Sure, Robin.

Ms. Rayner: Two points of interest. One is that home occupation actually is not in the agricultural section, it's only in the rural, and I guess it's deleted from the residential, but it's actually not in your agricultural that I could see anyway. And the second thing is the discussion about retail sales, and on Page 3, No. 4, as I read it, it says, "Retail sales shall be limited to products produced by the home-based business." So that implies that, in fact, this law is addressing some level of retail products that could be sold to the public, the tourist, whatever, at least that's how I read it. Perhaps Mr. Alueta could clarify that for us.

Chair Cosma: Okay, Mr. Alueta.

Mr. Alueta: It does, again, it allows for the retail sales, so if you're a furniture manufacturer, you make custom koa \$10,000 rocking chairs, and your client wants to come and he pays for it, that's a retail sale, and that's -- but you're only limited to 16 -- or 2 people at a time, per hour, 16 for the entire day. I do not know how you're going to do a commercial retail outlet unless it's by appointment if you're limited to 16 per day. So that's where you're going to -- I mean, so again, it's not geared toward you have a sign out on the road and come stop by me, when you hit 16 in the day or if 4 people show up, are you going to then kick them off? I mean it's just not --

Chair Cosma: Or the 17th customer come, then what do you tell 'em?

Mr. Alueta: Yeah. Exactly.

Chair Cosma: Where does all these numbers come up? Is it administrative decision or is it the law?

Mr. Alueta: It's what council is proposing. And again, remember, they're trying to try to strike a balance between allowing some sales that expands home occupation, but it doesn't negate the fact that there's still a commercial district called "SBR," "B-1," "B-2," "B-3;" all your commercial districts, industrial M-1, industrial -- heavy industrial M-2, that are still areas where if you wanna run a full-scale business, you can. But if you have such a business that is limited, that can meet the definitions under 19.67, you can have it in your

house. And again, maybe it's for incubator, maybe it's, again, it's for small businesses that can meet the criteria. Again, it's not one size fits all. The one size fits all is call "M-1 light industrial." That's where you can do anything you want; everything under the sun is allowed in M-1, and you can have M-1 here anytime you want. It's community plan down there by the dump so --

Chair Cosma: Is this going to affect non-profits, you know, like Hale Hulu Mamo senior home?

Mr. Alueta: I don't --

Chair Cosma: Non-profits that does small business, sustainable --

Mr. Alueta: If it's related to their non-profit, then it wouldn't change anything. I mean I can't really speak to that because if they're an allowed use as a non-profit. So again, Madam Chair, I mean, again, the most clearest way for us to try to get through this is do one section at a time, and then get your comments from each section.

Chair Cosma: Okay, I agree.

Mr. Blumer-Buell: Not a question, I agree with Joe, let's, if everyone's in agreement, let's go for it. You're going to lead us through this?

Mr. Alueta: Yes, I can. And again, I can answer more detailed questions as we get through each --

Mr. Blumer-Buell: What I would suggest, as we go through this, is if people can -- if members of the committee can think of potential alterations or changes, suggestions with this, then let's make 'em as we go through. We'll compile them. We don't have to have a discussion as we're going through it on whether we agree or not. This will get us through it, and then we can make decisions at the end. If that's okay.

Mr. Alueta: At the end of each section, yeah. Don't -- you need to get consensus at the end of each section rather than --

Chair Cosma: Right. Before moving on to the next.

Mr. Alueta: Before moving on.

Chair Cosma: Correct.

Mr. Alueta: Again, like I say, the first section is 1, and Section 1 adds the definition of what home-based business. So as long as your comfortable with that or -- okay.

Mr. Crawford: My question is with the clarification that you provided regarding No. 4, under the 19.67, "Retail sales shall be limited to the products produced by the home-based business," and that that's further restricted by the number of customers that you can have at one time?

Mr. Alueta: Correct.

Mr. Crawford: But that some retail sales are allowed?

Mr. Alueta: Yes.

Mr. Crawford: So if that's the case, I think that that should probably be added to the definitions so that it includes growing, processing, manufacturing, or sale of a product, or provision of services, for consideration of profit because --

Mr. Alueta: Or some retail sales. That's -- that may be a --

Mr. Crawford: Well, I mean I think that my sense would be you're just including the general allowable activity here, which does include sales, then you can restrict sales, just like you're restricting all these other things, in the, you know, in the 19.67.

Mr. Alueta: Okay. So where would you wanna add it?

Mr. Crawford: But if you don't have "sale" in here, then you're restricting that outright from the beginning.

Mr. Alueta: Okay, where would you --

Mr. Crawford: I just put, "growing, processing, manufacturing, or sales of a product."

Mr. Alueta: Oh, okay. Okay. Is there a consensus among the board?

Mr. Ballantyne: Yeah. Certainly, I would agree. I would second that motion.

Mr. Alueta: Okay. Okay.

Chair Cosma: Okay, so that was Scott.

Mr. Crawford: It's not a motion.

Chair Cosma: No. We're in discussion still yet.

Mr. Alueta: And then on --

Chair Cosma: Go ahead.

Mr. Alueta: Okay, and then on J -- I'm sorry. Did I get -- oh, I'm sorry. That is Section 1, so that is the only thing in Section 1.

Mr. Crawford: Right. That's the only thing in Section.

Mr. Alueta: Alright. So if there's consensus, I can make that recommendation for you guys.

Chair Cosma: Do we have consensus on --

Mr. Blumer-Buell: I think we have consensus. We're just going to add the word "sales" in there to be clear that it includes sales.

Mr. Alueta: Correct.

Mr. Blumer-Buell: Okay.

Mr. Alueta: Okay. Section 2 deals with, like I say, striking "Home occupation," and then just putting "Home-based businesses."

Mr. Crawford: Based on your description of this, it seems like, in one sense, the home-based businesses is subsuming but if for tax purposes there's still a difference, then we'd probably wanna have both in here.

Mr. Alueta: Is that a consensus that -- to add both if it's for tax purposes?

Mr. Crawford: Yeah.

Mr. Alueta: Okay.

Mr. Crawford: If home occupations -- if you could still qualify under home occupations without being a home-based business and it would not have the same tax implications, then both should be included in this section.

Mr. Alueta: Right. So the intent is to keep home occupation --

Mr. Crawford: Right. And then add a section K.

Mr. Alueta: And just add home-based business as allowed use, and if you're -- and make it clear that if you're a home occupation, you're not subject to commercialized residential for the tax --

Mr. Crawford: Right.

Mr. Alueta: Okay. I can do that.

Mr. Crawford: That's my proposal.

Chair Cosma: That is separate, yeah?

Mr. Alueta: Separate. Yes. Okay, so that's Section 2. So --

Mr. Blumer-Buell: ...(inaudible)...

Chair Cosma: So we finished Section 1, right?

Mr. Alueta: Section 1 and Section 2 you just completed.

Chair Cosma: We're on Section 2 now?

Mr. Alueta: No, Section 3. You just did -- you just added --

Chair Cosma: Okay.

Mr. Blumer-Buell: Are we going to talk about that tax issue?

Mr. Alueta: Not till -- well, you just did in the sense that you're adding it for the purposes that your thinking is that you do not want home occupation to be taxed at commercial residential rates and that only those that meet the definition of a home-based business would be taxed at that.

Mr. Blumer-Buell: I would suggest we come back to that because the whole tax thing's a little more complicated. Let's just go through it. I mean I have several things I'd like to put forward regarding the advice to the planning commission and county council involving the taxes, but I don't -- I think we want to get through the whole bill first.

Mr. Alueta: Yeah. I think you wanna get through that section and probably your concerns can be raised during the last section, which deals with the tax --

Mr. Blumer-Buell: That's right.

Mr. Alueta: Okay. So under Section 3 deals with -- it's still dealing with the residential district but dealing with special uses, and it just amends, again, "Domestic type businesses that do not meet the definition of home-based business or home occupation," and that will not be a detrimental effect, so those would require a special use. That's -- it's only a slight change to what's existing language.

And then it's -- I is eliminating "Residential planned developments." So I don't know. That's interesting that they're eliminating that but that's fine. And then "Specialized education" they're adding.

Chair Cosma: Go ahead.

Mr. Blumer-Buell: Can you give us a definition of "specialized education?"

Mr. Alueta: I'll let Corp. Counsel do it. She might have it on-hand. There's currently a definition for education in general, and then there's education specialized, and it primarily deals with, like say, yoga studios, or karate classes, tae kwon do classes, those types of specialized -- art classes, somebody wants to do an art --

Chair Cosma: Specialized --

Mr. Alueta: So those would fall under the definition of specialized education. It's under 19.04. Was there any other questions besides that definition on this section?

Mr. Blumer-Buell: I have a question on J, and I know that this may have come out of the situation where you had a halau up in Pukalani, but I'm just, you know, the idea of, to me, of having to get a permit for traditional Hawaiian practices seems, you know, a little restrictive, and I wanna be considerate of the neighbors of course, but any comments on that?

Mr. Alueta: It originally came up, again, remember, this is group instruction of traditional Hawaiian practices, this is not traditional Hawaiian practices in itself, so you can still do traditional Hawaiian practices, there's nothing against that, or limitation, but group instruction of traditional Hawaiian practices would be. It originally came up during the home occupation discussion as to whether or not it should be allowed. And it was discussed during the planning commission. But our own -- we have several members in our staff who have halau, and they say they would never do it at their house 'cause it too noisy. It is a lot of people. And so they would never do it that way. And they felt that they actually -- some of them actually helped craft that because they said, yeah, you do need a special use permit because you need to be able to have their neighbors come and talk

about it before you try to do something like that because it can go late at night too. And I've lived down the road from it when it's small, but most halau today, to be economical, has to be a good size. A portion of the halau getting together, like six members practicing, that's not a problem. But when you have an official group thing, then you do need to come in for a special use permit.

Mr. Blumer-Buell: Thanks for that explanation. This would -- since this is under special uses, this would have to be approved by the appropriate planning commission anyway, yeah?

Mr. Alueta: That is correct.

Mr. Blumer-Buell: Okay, thanks.

Ms. Thomson: I have the definition for you for "specialized education," means a facility that offers specialized educational curriculum such as, but not limited to, trade and vocational language, music, dance, and art schools.

Chair Cosma: Thank you.

Mr. Alueta: Okay. So is there any other further discussion or any recommendations for Section 3 by the board? So you're fine with the current language - just leave it as is? Okay. Alright. Madam Chair, is it possible to take a break at this point?

Chair Cosma: I was just going to recommend that.

Mr. Alueta: Okay.

Chair Cosma: I think we should take a five-minute break.

Mr. Alueta: Thank you.

(A recess was called at 5:35 p.m, and the meeting reconvened at 5:50 p.m.)

Chair Cosma: Okay, the Chair would like to call the meeting back to order. Before we do anymore discussion, I'd like to turn it over to Corp. Counsel to give a brief review on the home occupation.

Ms. Thomson: I wanted to just read you kinda the -- I won't read you the whole definition word for word but just the highlights of home occupation so you can keep that, you know, little bit more separate from what we're discussing today. So "home occupation" means an enterprise or activity conducted by the occupant of a dwelling unit where the enterprise

or activity takes place and which involves either growing, processing, manufacturing of product, or the provision of services for consideration of profit. So the general statement at the top is really similar. Here are the limitations: it can only be a member of the family residing on the premises of dwelling unit, so there's no other employees; no more than 25% of the floor area of the dwelling unit can be used; no group instruction or group sales meetings; no product exchanged, so no sales can be conducted; no signs; some limitation of vehicles; storage has to be within the home or within the area approved; no clients or customers or patrons except for one-on-one pupil-teach basis, so long as that activity is limited to a total of eight people per day, so you can have one-on-one instruction, basically, but not sales, no customers or patrons other than instruction. And these are outright not permitted: repair, manufacture, processing, or alteration of goods, materials, or objects except baking, dressmaking, tailoring, and the manufacturing of art and craft items; no harboring, training, or raising of dogs, cats, birds, other animals; and no automobile or body fender repairing. So that's the definition of "home occupation."

Chair Cosma: Thank you.

Mr. Alueta: Okay, so we're done with the third section, now we're going to get into I guess the meat and potatoes of the whole bill, which is the whole section on --

Mr. Crawford: Just to clarify that a little bit earlier. I think you did say before like the home occupation bill will become moot but I don't -- is that not accurate that there actually will be two different things and somebody could be home occupation without being a home-based business?

Ms. Thomson: Well, you know, that might be something that this body wants to consider. You know, would you consider eliminating home occupations all together and just having this new home-based businesses definition that takes the place of it? Do you want both? You know, so you guys can consider what your consensus is on that point, if you have one.

Mr. Alueta: They did. At the last section, they wanted to keep home occupation in J. They didn't wanna eliminate it. They just wanted to add home-based business. When I said it was going to be moot is the way it was currently proposed was that it eliminates the home occupation as an allowed use in the residential districts and replaces it with home-based business so, therefore, if you had a currently definition of home occupation, you clearly also would meet the definition of a home-based business; in fact, this expand it. But for -- you've recommended that you keep it separate and have home occupation and home-based business; that way, if somebody qualifies as a home occupation, they can do that and not get dinged on the commercial residential.

Mr. Crawford: Right.

Mr. Alueta: Okay. So, again, going back into the meat -- Section 4 is the meat and potatoes of the home-based business and -- oh, I just wanna ask one question going back to that. Where it says, "home-based business," did you or did you not -- would you wanna make it subject to 19.67 of the provisions?

Mr. Ballantyne: I need a further explanation on that.

Mr. Crawford: I think that we would because if you're -- I mean that's just kind of a --

Mr. Alueta: It makes sense, right?

Mr. Crawford: It's just sort of a form and whatever.

Mr. Alueta: Okay.

Mr. Crawford: But, yeah. I mean it would need to refer to the section that defines what that is.

Mr. Alueta: Okay.

Mr. Crawford: Or that defines the restrictions.

Mr. Alueta: Okay. So home-based business, again, this is a whole new section so there's no ramseyer in here because it's all being added so --

Mr. Crawford: I can start with a couple things.

Mr. Alueta: Okay.

Mr. Crawford: Lehua, is that --

Chair Cosma: Go ahead, Member Scott Crawford.

Mr. Crawford: So, just starting with No. 1., I think it's a little bit unclear when you define it as one person other than a member of the family residing on the premises. I can just think of cases where you could have a multi-family household. You could have three people living in a house together who aren't members of the same family. So I think it would make it clearer just to say people residing -- "those people residing on the premises" rather than "a member of the family residing on the premises." The other side of it, you could have a family residing on the premises, and then your brother could live someplace else, and then he could be employed 'cause he's a member of the family even though he's not residing --

he's a member of the family that's residing on the residence even though he's not residing there himself.

Mr. Alueta: Okay.

Mr. Crawford: So, to me, it would be -- take "family" out of it. Just say it's only one person other than those residents or those people residing on the premises - whatever the appropriate language is there but --

Ms. Thomson: You might also consider -- so you're wanting to limit it to occupants whether they're owners or whether they're rental occupants. You could limit it also by a number of people. You know if you're only -- right now it's saying one employee plus kind of a random, you know, undetermined assortment of family members, but you could limit it to a number of people if you wanted to, you know, two or three, could be employees of this business.

Mr. Alueta: The current definition of family, several years ago, was expanded, basically, and it can be up to six unrelated individuals.

Mr. Crawford: Okay. So "family" doesn't really mean family.

Mr. Alueta: "Family" is not -- well, "family" is in the broad section and the reason they did that is to allow for these state group homes, and so that's why "family" has been expanded to mean six unrelated people, so that's the definition. But I agree with you, Board Member Crawford, that, you know, to make it simpler, if you're just trying to say, "only one other person other than those residing on the property may be employed," that would be a lot cleaner and clearer so that if the person doesn't reside, meaning live there, as their primary residence, maybe you wanna clarify that as living on the -- reside on the property as their primary residence. You see what I'm saying? That way it would clarify it further.

Mr. Ballantyne: Yeah, I think it's very -- any of these things are highly unenforceable so do they want to be in there at all? I can imagine, boy, trying to enforce this one is -- it's very difficult. I mean I tend to think maybe better is a number in the business. Personally, I agree with council on that one.

Mr. Alueta: Okay.

Mr. Ballantyne: Maybe -- but what number again would -- to arbitrate - 4, 5? Who knows. Depends on how big their lot is again. Difficult.

Mr. Blumer-Buell: Thank you, Ian. I have a question on No. 1. Are commercial kitchens going -- are they legal as a home business? If somebody puts in a certified kitchen, would

that be acceptable under this, and I bring that up because, for two reasons: One, if we get into food processing, which I completely support, there's going to be a lot more people involved, that's fine with me as long as you're not disturbing the neighbors; and, secondly, Paul Laub, from Lahaina, brought up a -- that point in his letter, that's an exhibit and I can't find it, but he was concerned particularly with that, you know, there would be -- he certainly is concerned about any detrimental effect but he was also concerned that we might be taking away opportunities for veterans, for example, by limiting the numbers. So anyway -- so I guess the question is: Are certified kitchens an acceptable home business?

Ms. Thomson: In your packet, the State of Hawaii, Department of Health, offered the comment that any home-based business that's storing, preparing, serving, manufacturing, packaging, etcetera, food must comply with the Department of Health rules and regulations so -- so, you know, I don't know whether or not it's outright spelled out that you can have commercial kitchens as one of these allowed uses but that comment might be -- you know, if you agree, you could adopt that comment as well.

Mr. Alueta: It all depends on if you wanna clarify -- the way I read it currently, right, you can only have one -- well, I take it back, you could still do it but you gotta remember a dwelling can only have one kitchen. So if you get a kitchen that's certified, you can't use it as your domestic kitchen. Don't ask me why. That's how they work. That's how the state works. So, theoretically, you could have a cottage dwelling and have the kitchen certified and use that as a -- for your home occupation. Again, it doesn't say anything about -- I mean, excuse me, your home-based business. It doesn't say anything about someone having to actually live in the building where the home occupation is. So to answer your question, yes. They could under this rule. They would have to meet the Department of Health standards. Traditionally, we would require a special use permit, but under this provision of home-based businesses, I believe that you could still do a commercial kitchen but you -- again, the limitation is, in the residential and ag and for it to be a single-family dwelling, you can only have one kitchen. You can't have two.

Chair Cosma: Okay, this is not in regards to commercial kitchen. No?

Mr. Alueta: I'm sorry. What was the --

Chair Cosma: This is not in regards to commercial kitchen but isn't it discriminating by just going to one person, you know limit it to one?

Mr. Alueta: With regards to what, the amount of employees?

Chair Cosma: Yeah.

Mr. Alueta: Well, you can, according to the way they got it written right now, right, only one member other than the people residing on the -- family member residing on the premise. So again, my example of you could have three or four massage therapists live together in a house, and it could be a six-bedroom house or a seven-bedroom house, and they all live in a room, live in the house, and then they setup massage rooms in the spare bedrooms, and they only meet their clients, they book clients, up to two in any one hour, or two massage therapists, and they all only have, you know, two clients come every hour. To me, that's kinda what, you know, that's what it's geared toward so you can have -- and in that case, you could have somebody who has a house, it's in a great location, they live there, they have a friend who lives somewhere else, and they say, hey, let's open up a massage studio here at our house. We only have private clients that book. We all have our own private clients. She shows up in the morning and -- or comes there only when her clients come there. That's her one offsite or one non-residing family member on the property as an employee. And the same thing could be as a doctor's office. A doctor may have a receptionist or an aid come and he's a private doctor, and so that's -- that would not be uncommon. So right now it's limited to only one. And so are you guys comfortable with that, or did you want to restrict it more, or clarify it saying -- and not have the "family" part? I mean it's up to you guys.

Mr. Blumer-Buell: I would, personally, like to see it less restricted so long as it's not a nuisance to the neighbors. I mean -- yeah. I mean I think that's a big criteria of this whole thing. So I would like to allow people to have more employees there, you know, particularly if people are processing food, it takes a lot of people to do that usually so --

Chair Cosma: Providing that there'll be no detrimental or nuisance effect upon the neighbors. That should be emphasized. 'Cause I don't see how that could effect the neighbor by having more than one person.

Mr. Alueta: Or you could restrict it -- I mean you could just eliminate that whole section and, therefore, there is no limit.

Mr. Ballantyne: Yeah, I mean I'm for that, personally.

Ms. Thomson: There's a general item 11, under that list.

Mr. Alueta: Right.

Ms. Thomson: You know, well, 10 and 11, you know, noise, and no negative impacts. So I don't think you have to say it, you know, every time.

Mr. Alueta: Right. The general provision is that the home-based business shall not negatively impact the residential character of the property or the neighborhood. So I think,

you know, like if you had two employees, that may not. But if you had five employees and you had to all park in the yard everywhere, that might create a negative impact. But again, it's going to be subjective so -- but I mean my recommendation or your options are to keep the language as is, delete it, or amend it so --

Mr. Ballantyne: Well, I agree with the last idea you had, the wording.

Chair Cosma: Delete?

Mr. Ballantyne: No. No.

Mr. Alueta: Oh, just take out the "family" part and just say that only one person other than a member residing --

Mr. Ballantyne: No. I understood you to say that it was just a general provision that provided there's no nuisance to the neighbors. It's fine.

Mr. Alueta: Right. That's already in there as No. 11 so, again --

Mr. Ballantyne: In that case, you would be taking that out.

Mr. Alueta: You just delete number -- if you don't think that you need that restriction, then you can just delete it. You could recommend deletion of it.

Mr. Ballantyne: Well, that's my recommendation, personally.

Mr. Crawford: Ian just also brought up the point that it's about enforceability, you know, and as you're the one that kinda has to deal with that side of things, how enforceable is it to determine who is a resident and who is a non-resident employee and whether they have more than one employees? Is that really practical, like why have it in the law if it's not enforceable?

Ms. Thomson: If you had to determine where somebody's primary residence is, you can. You know, they have to prove their tax records, you know, are at that location. So that kind of lie's actually pretty easy to determine.

Mr. Crawford: Does that answer your question on that? The enforceability, actually, at least is --

Mr. Alueta: He's proposal is to just eliminate it so if you guys don't think it's a concern -- is there a consensus on eliminating 1, just deleting it and, therefore, you can have as many

offsite employees as you want provided that you still meeting No. 11, which is the non-detrimental?

Mr. Crawford: I think it -- I could see how somebody practically would want to have more than one employee, offsite employee, even if it was like a shift thing where you had one employee who came in the morning and another employee that came in the afternoon. So that's going to be the same impact as having one full-time employee, but that would be prohibited by this. So I think, you know, I'm not sure if it should just be completely eliminated, but I think one is maybe too small or, you know, and if we have to just -- if it comes down to just picking an arbitrary number, maybe it is better just to leave it out and, you know, just go by standards of nuisance instead of how many employees.

Mr. Ballantyne: Again, I'm thinking of Hana where we've got a ten-acre property a 1000 feet away from the nearest building, what does it matter whether they have one people or five coming in? Now, I understand if you're in south Maui Meadows, or somewhere, then that's a big difference. But for Hana, I would recommend there's no limit.

Chair Cosma: So shall we make a recommendation to amend it to no limitation?

Mr. Ballantyne: Well, yeah, just to drop provision 1.

Mr. Crawford: Maybe we can say this that our overall recommendation is to drop the provision but if it's not dropped, then to at least change the definition so that it's more clear in terms of resident versus family member. Does that make sense?

Mr. Alueta: Yeah. And also, just to -- and to clarify, do you mean one offsite employee onsite at any one time so that if you have shifts, and you had like three employees, but works Monday, Wednesday, Friday, the other one works Thursday, you know, Tuesday, Thursday; it's only one employee on the premise at any one time, one non-resident employee?

Mr. Crawford: Yeah. I would say that. But the No. 1 is just eliminated all together. But if it's not eliminated, then redefine it so that it's one --

Chair Cosma: So shall that be put into a motion?

Mr. Crawford: One employee at any one time.

Chair Cosma: No?

Mr. Alueta: Is there a consensus on that meaning your first as to 1 is to eliminate it, and if it's not eliminated, then to further define on the one employee, whether or not it's family members or not, just clarify it?

Chair Cosma: Right.

Mr. Alueta: Okay. Is that a consensus? I see a lot of head --

Chair Cosma: Yeah.

Mr. Alueta: Okay.

Chair Cosma: I think we agree with that.

Mr. Alueta: Okay. I can --

Chair Cosma: You agree with that, John? Can you repeat that, Joe?

Mr. Alueta: Your recommendation is to eliminate it, but if it's not eliminated, then to just clarify the language so that it's clear that you can only have one person, a non-residing member, on the premise at any one time.

Mr. Crawford: Yeah, one employee working.

Mr. Alueta: Yeah.

Mr. Crawford: One non-resident employee working at any one time.

Mr. Alueta: Yeah.

Chair Cosma: Okay.

Mr. Blumer-Buell: If it's -- if we're going to redefine it, I'd rather, just off the top of my head, what about using the number six, and I'm thinking about food processing, in particular, and, you know, I don't think there's going to be dozens of people, but you wanna limit it or eliminate it.

Mr. Alueta: Okay. So I'm pretty clear on 1 now.

Mr. Crawford: What do you have ...(inaudible)...

Mr. Alueta: Well, any other section in that -- yeah, No. 2, "No more than forty percent of the floor area . . ."

Mr. Ballantyne: Okay. Again, I'd like clarification on this one because you mentioned there's no requirement to live in a home, but there would be a requirement to limit it to 40% and we're not sure whether it's 40% in total including the garage and the whatever, so we definitely need to come to grips with this one I think.

Mr. Alueta: So No. 2 and No. 7 are kinda interconnected.

Mr. Ballantyne: Correct. Yeah. Yeah. So the floor area of the dwelling. It definitely says the "dwelling unit." So the -- if the garage is separate, then that wouldn't be allowed to be used, I guess.

Mr. Alueta: My recommendation, I guess for thought, would be to set a square footage maximum, besides a -- you could say 40% of the I guess -- boy, of any habitable structure. No, a garage is not a habitable structure. I'm trying to think of -- or to clarify storage is excluded from the 40%. You know what I mean? Like --

Mr. Ballantyne: Well, I'm thinking in terms of, again, in Hana, we've got, in general, a lot of the houses are 700 square feet, maybe a little bit more, a little bit less; we're comparing, just now, with houses, which one of these documents said the average size is 2,000 square feet. It certainly isn't in Hana. So a square footage as a figure would be fairer to the people in Hana. And the other thing is, in general, I presume we want these businesses to move on to a larger area if they become to successful. You know, we don't want a 20 million dollar business working out of a home. So if it's limited to a certain size where a lot of people can't work, then, you know, if you've got a 7,000 square-foot home, you can't have 4,000 square-foot offices in there. If we said it was limited to a 1000 square feet, maybe.

Mr. Alueta: Okay. So would you wanna say, again, 40% of the floor area of a dwelling unit not to exceed a 1000 square feet?

Mr. Ballantyne: No. I would just say a 1000 square feet.

Mr. Alueta: Okay.

Mr. Ballantyne: Not to exceed a 1000 square feet. So if you've got a home in Hana and you want to use half of it, you can.

Mr. Alueta: Okay. Alright. So just the --

Chair Cosma: Where did the 40% come from, and not 50%?

Mr. Alueta: Council.

Chair Cosma: How did -- oh, okay. Forty, and not fifty, and --

Mr. Alueta: Yeah.

Chair Cosma: It just makes it complicated, yeah, because -- it's very complicated. It's easy to go with no restriction as long as you don't be a nuisance to the neighbor.

Mr. Alueta: Yeah. I think that, you know, again, a square footage, you know, regardless, so if you had a 1000 square-foot house and you really wanted to make your whole house, a 1000 square feet, I mean use the whole thing for your business, or 500 of it for your business and 500 in your garage, I think, you know, it would be better just to say that you shall not occupy more than a 1000 square feet of the structures on the property. You know, not more -- and then if you wanted to limit the dwelling size, you could say, you know, you could say not more than a 1000 square feet of the structures on the property or 40% of the dwelling unit.

Ms. Thomson: Yeah, whichever is less.

Mr. Alueta: Huh?

Ms. Thomson: Whichever is less.

Mr. Alueta: Whichever is less.

Ms. Thomson: Right.

Mr. Crawford: I think there is some value to having -- to saying some percentage of the dwelling unit because the idea that it is a home-based business, not just a home that's converted into a business. So you want -- the idea is you are living there so it shouldn't be a 100% of your dwelling space converted to business use. So, to me, maybe it should be a percentage but not to be greater than a 1000 square feet or whatever it is.

Mr. Alueta: Okay. And that can be -- we don't have to hammer out the language, specifically, here. We can get the general consensus that in your recommendation, again, is to the Maui Planning Commission and that is that you would rather -- you wanna see the 40%, you don't mind having the limitation by percentage, but it should not exceed a 1000 square feet so that it doesn't -- you know, in total.

Mr. Ballantyne: Yeah, I'm afraid I gotta disagree again. We've got a lot of artists in Hana that have got studios, and they're often larger than 40% of the dwelling, and I think, again, you know, we've got a lot of artists in Hana who are running home business I guess, and that would effectively make them unlawful.

Mr. Alueta: Okay. I'll wait for you guys to hammer that out as to how you wanna --

Mr. Crawford: I could see that maybe it's -- maybe 40% is the wrong number, but I do think there should be -- I think it makes sense that there's some kind of restriction but somebody that -- I mean you have to actually be living -- somebody has to be living in the house for it to be a home-based business.

Mr. Alueta: Well, not according to the definition. As we pointed out, the definition nor the way it's listed as a permitted use doesn't imply at all that it's the person who lives there is running the business. It doesn't imply anybody's living there.

Mr. Ballantyne: It just means the home can be used as a business.

Mr. Alueta: It just means the home can be used as a business.

Mr. Ballantyne: Right.

Mr. Alueta: So, you just keep that in mind. I understand what you're saying.

Mr. Crawford: If that is the intent of it, then I would say take out the percentage restriction. If that's not the intent, if the intent is to have it be truly a home-based business, where somebody's living there and running a business out of their home, then there should be a percentage restriction.

Mr. Alueta: Okay. Is there a general consensus on that statement? I can -- like if the intent is to maintain the thing as a home --

Mr. Blumer-Buell: Yeah. I agree that we're talking about home-based business and that's what it should be a home, primarily, so -- and I do think we should define and restrict the area.

Mr. Crawford: Yeah. If there's someplace else where that needs to be -- it seems to me like the intent of it shouldn't be to take a residential unit and convert it into a business completely so that nobody's living there and somebody's just running a business 'cause, essentially, you're taking -- you're taking a long-term rental off the market, in a sense, and, you know, you're just having a commercial operation in a residential district. So wherever

that would need to go, I think that that -- that my sense is the intent, right, is the intent should be that that it's the home; that it's the occupant's business.

Mr. Alueta: Okay. On this one, we may need a motion because there seems to be a differentiation and opinions on, and I think it's an important point. It's really the meat and potatoes of this bill as to how you wanna limit it by square footage, by both, by occupancy so --

Mr. Crawford: Does anybody disagree with that idea that it should be a home -- that somebody should be residing in the home, that it's a residents first, and then it's a business being operated out of a residents, not just a building that's been converted into a business in a residential district?

Mr. Blumer-Buell: I agree with that and maybe we should put that as one of the standards, if that's the right place to put it, that --

Mr. Ballantyne: Yeah, I agree with it as well because, as was just pointed out otherwise, you're turning a building in a residential area into a commercial building, basically, if there's nobody living in it.

Chair Cosma: I agree and that's why having a percentage to better control it and focus more on the home, but at the same time, you know, do a business but with restrictions so --

Mr. Alueta: Okay. One way to get that is to change what a home-based business means on the definition in Section 1, basically, to say that the home-based business means an enterprise activity conducted --

Mr. Crawford: Oh, well, actually it's already in there. It says, "conducted by the occupant of a dwelling unit."

Mr. Alueta: But it doesn't say that it has to be a long-term occupant of the dwelling unit. We have a definition of a "long-term" -- or a long-term resident.

Mr. Crawford: So what is the definition of an occupant? You're just occupying it while you're there?

Mr. Alueta: Yeah. That's -- basically. That's called "occupancy." So you could say that it has to be conducted by a long-term --

Mr. Crawford: A long-term occupant or long-term resident.

Mr. Alueta: Yeah, long-term resident.

Mr. Crawford: The resident.

Mr. Alueta: Yeah. Long-term --

Mr. Crawford: Whatever the appropriate language is to define that but --

Mr. Alueta: Okay. I understand your concern and --

Mr. Ballantyne: It could be the resident's -- the person's tax base address 'cause most of us have our home as our residence address.

Mr. Alueta: But this could be -- the reason is not because it could be applied to a renter. I may rent a place, I may have a 600 square-foot cottage that I rent, and I wanna use part of -- one of my rooms as my office, and I would still qualify as an occupant. I mean I would be a long-term resident of that dwelling, I may not own it, and so, therefore, I don't have any tax. You know, for the purposes of taxes, I don't declare that as my long-term residence because I don't own it, only the -- so this, again, this would apply not only to owners of homes where you live and reside as an owner, but also to a renter who could also rent a house.

Mr. Crawford: To me, it kinda goes to the idea that it's the primary residence of the business operator.

Mr. Alueta: Okay. I can just put that and I can work something out.

Chair Cosma: I agree.

Mr. Ballantyne: "Primary residence" is the operative words.

Chair Cosma: So we're fine with that?

Mr. Alueta: Well -- okay, so, yeah, I'll put the primary residence back in the section in the definition of a home occupancy. I'll work with Corp. Counsel on that. But I guess getting back to that No. 2 is that so you got it now as a primary residence, the other thing, do you want a 40%, 59%, 49%, a square footage period? Again, it can be 40% not to exceed a 1000 so that, therefore -- but it would not help Ian's issue where you have a 750 square-foot cottage and you use 500 square feet of it as your studio.

Mr. Ballantyne: Yeah. I think we covered that. Now we've redefined what a home-based business is. The person has to be living in there and if it's their primary residence. So I'd go back to just saying a square footage total.

Mr. Alueta: Okay.

Mr. Ballantyne: And whatever they're happy to live in in their home is fine.

Mr. Alueta: Okay.

Ms. Thomson: I think maybe something - sorry to throw in my complicating two cents - you may wanna limit it to a square footage of the total lot, you know, so that way you don't have to deal with all these out buildings and all, so your 1000 square feet includes anything on the parcel that's used for this business, you know.

Mr. Crawford: I think I agree with what Ian said that if we define it as a primary residence, then it's more up to the person to figure out how much of that they wanna dedicate to their business and we shouldn't restrict it within that. And I agree make it whatever the square footage is, it's the total square footage.

Mr. Alueta: Okay. That's a good --

Mr. Crawford: Including garage, storage, accessory buildings.

Mr. Alueta: Yeah. Right. Because no one's going to do auto repair in their livingroom. So -- or outbuildings. Okay. So going back to No. 2 again, so you're going to say not using more than a 1000 square feet of structures located on the property?

Mr. Crawford: Not even structures because I mean you could potentially, I guess, store something outside or, you know --

Mr. Alueta: In the open?

Mr. Crawford: Yeah. Or --

Mr. Ballantyne: ...(inaudible)...

Mr. Crawford: Well, yeah. Okay.

Mr. Ballantyne: We can change ...(inaudible)...

Ms. Thomson: You know, for the auto repair, if they're, you know, allowing two cars at any one time kinda thing, those a probably going to be outside.

Mr. Alueta: So was there a square footage that you guys are --

Mr. Ballantyne: No. I'm still happy with a 1000.

Mr. Alueta: Okay.

Chair Cosma: So are we gonna --

Mr. Alueta: Chair Cosma?

Chair Cosma: Okay. I'm trying to think what is -- a 1000 square footage, is that too much?

Mr. Crawford: It's really hard for me to come up with a number that's out of the blue that I think has -- that's based on anything so I agree that it should probably be an actual square footage rather than a percentage, but maybe, but I don't really know how much.

Ms. Thomson: I think, you know, one of the things to keep in mind too is that this is going to take some negotiation once it gets through the process, but say if somebody, you know, if this goes all the way through and the 1000 square feet is in this code, somebody could come in and request a variance and say that they wanna use 1500 because these special circumstances so --

Mr. Crawford: So shall we say a 1000 square feet but maybe note that that's somewhat arbitrary?

Mr. Alueta: Well, I think you can go with a starting number. I think a 1000, if they don't meet -- they can't meet the 1000 square feet, then they would have to come in for a special use permit and go through a separate process. So I think that's a good way to limit it. I mean that way -- I mean, again, it's all going to get amended at some point by the Maui Planning Commission and/or, ultimately, the county council, but at least it'll show some direction for them that you're, one, you're looking at it that it should be the primary residence of the person operating the business and that it's up to them how much space they wanna use to live in that because they still gotta live there. So if they wanna inconvenience themselves by using 700 feet of their -- I mean 7500 square-foot house, you know, and they live in one room, that's fine. That's up to them. That's their personal choice. But they can't exceed a 1000 square feet of total area, so whether it be a 600 square-foot garage, you know what I mean? And then nothing in the house, that's up to them. So a 1000 square feet of structures on the property. Or do you care about open storage? Is that talked about somewhere?

Mr. Ballantyne: Yeah, that comes later, doesn't it? And that's point 7, which again I was going to make a comment on but I guess we're on 3 at the moment.

Mr. Alueta: Okay. So we'll go with the 1000 square feet of structures on the property? Okay. Okay, let's see, so No. 3 is no group instruction classes or group sales meeting shall be permitted on the premises of the dwelling unit except as provided by J, which is basically under Special use permits.

Retail sales shall be limited to products produced by the home-based business. So you guys comfortable with that? That means -- so, for us, that would mean no Amway, no Avon sales, I mean or Amway or anything like that, which seems kinda strange but --

Mr. Ballantyne: Yeah. I think it is strange too. I mean, in theory, you couldn't sell software, I suppose, if you had an employee.

Mr. Alueta: Yeah. I mean I'm just -- it just means that you would have to produce, as I said, my example of the rocking chair, so it couldn't be something that you bought and then resold. That's what it's basically saying.

No sign or display of advertisements, I guess. Again, it's trying to not change the character of the neighborhood.

Mr. Crawford: I think the point that you brought up earlier is a good one that you -- if you -- the difference between the home occupation and the home business, the home occupation you're not having anybody come to the house at all. The home business, you are expecting customers to come. They're only coming by appointment. It's not open for the public to just come in, but they still need to find the place, so in this case, you'd have your, you know, the neighbors, you'd actually be increasing the nuisance for the neighbors by having to give directions to your place by people that get lost 'cause there's no sign. I mean that's what she's saying. If somebody's coming up and there's no signage, and they're knocking on the wrong door, you're actually creating more of a problem.

Mr. Alueta: It's called "an address." People fail to put addresses on their homes, I find.

Chair Cosma: No. We're surrounded sometimes by bushes, trees. We don't live right on the highway.

Mr. Crawford: Do you know how many houses out here don't even have addresses?

Chair Cosma: Anyways, I think if the language can allow a very discreet signage, maybe perhaps limiting the size to like a 12-by-18, that blends in with the nature, or something. How big is the --

Mr. Blumer-Buell: I think an address sign is adequate. I mean if this is a home-based business, the county has assigned street numbers out here and I think we should just -- people should just have up there --

Mr. Alueta: So 176 square feet? 12-by-8 -- 12 feet by 18 feet?

Mr. Crawford: No. Inches I think.

Mr. Alueta: Oh. Oh. Okay. I'm sorry.

Mr. Crawford: I understand what you're saying, John, but there's -- there really are -- there are houses, like out in Kipahulu, there's residences out there that do not have a street address and trying to find it by a street address would be just impracticable.

Mr. Alueta: So a 1-1/2 square foot sign.

Mr. Crawford: The other suggestion I had was maybe even require that the sign say "By appointment only" so that there's a sign out there but it's not saying it's a business that you can just walk up to.

Mr. Ballantyne: I'd like to know how this will fit in with the studio people again who we have a lot of at the moment. They've got a separate ordinance somewhere that they can comply with or how does this work because the only way a lot of them get business is by people walking in?

Mr. Crawford: Yeah. The way this is defined right now it would not allow, for example, Arabella's studio, where she has a sign out on the road and tour visitors just come up. That's not what this is for.

Mr. Alueta: No. You would require, like Wakiu art gallery studios or stuff like that, if they're not in the commercial district or in the SBR, they would require a special use permit, so like Kaukini Gallery in Kahakuloa, they went through a special use permit, and so most of those people down there, if they're in the rural district, would have to get a special use permit, and that's what -- and that's what item J or domestic type businesses in the home that do not meet the definition of a home-based business and -- or home occupation provided there's no detrimental effect to the neighbors, so that's what H is. If you look under 19.08.030, Special uses, H.

Mr. Ballantyne: What page is that?

Mr. Alueta: Page 2. And that's an existing law and that's why you see a lot of these coming in, okay.

Mr. Ballantyne: To me a studio is exactly covered by this home-based business description that we got under Section 1.

Mr. Alueta: Not if you want a sign; not if you want to have unlimited retail customers; not if you, you know, you want unlimited square footage. That's called the "business district" and/or a special use permit in any district that it's not listed as a commercial enterprise.

Mr. Ballantyne: Okay. Yeah, my general comment is then it should be expanded to include those people.

Mr. Crawford: I think that we have to -- we're walking that line of trying to balance the interest of allowing as much commercial activity as we can and encouraging as much commercial activity; at the same time, keeping in mind that it is a residential area and what the impact on the neighbors is. So if somebody is going to open up their house, if an artist is going to have a studio in their house, and they're going to work in that studio, and then they're going to, you know, display their things elsewhere, that's one thing. If you're opening up your house, putting a sign up and inviting tourists to come in as an open business, that, to me, goes beyond what -- it's having an impact on the residents, which shouldn't be just an automatic right within your house. If you wanna do that, you should go through some kind of process to get a variance or get a special use permit. And where exactly that line is, I'm not sure, but somehow there needs to be a line that it's, you know, it's allowing a certain type of activity but not going overboard.

Mr. Ballantyne: Okay. Well, I'm not going to prolong this, but I would, again, just make the point that once a year we have open studios here, and we got a lot of people coming to Hana; a lot of tourists coming to Hana; they're looking for the studios; they're on a map where they're going to be; they need signage, and they are working as a home-based business, so this bill should be including them.

Mr. Blumer-Buell: Yeah. I don't agree with it. I agree with the language in the proposal from the council that no sign or display shall advertise the home-based business, which is No. 5. So I don't mind, you know -- I don't think we -- I'm not going to give up that idea. I think, you know, in my opinion, the town is being trashed by signs and noncompliance with the Hana guidelines, design guidelines, and so I'd like to see that just become an address, you know, people can -- if it's an art tour or whatever, they can find it to an address. So there's not a consensus on that.

Mr. Alueta: Okay.

Mr. Crawford: John, would you object to even if the sign was defined as being very small, having to be basically on the door right next to the address, something like that? I'm just thinking of like if I'm going to somebody's house to get a massage, this is a professional

masseuse, and I'm going to pay them my money to go, it adds a level of credibility and professionalism to have a small sign that then I go to that place, I can say this is actually a business, and somebody's operating a business here. It's not just a person out of their home. There is actually a business. I think that it could be done in a way that's very non-intrusive. You could set very strict standards on the size of the sign, the placement of the sign, but to not allow anybody to have any signage to say this is a business and you've found the right place, to me, is too restrictive. Would you be willing to at least discuss, you know, some level of signage if we put really good restrictions on it?

Mr. Alueta: You have to look at it this way also, Board Member Crawford, is that a sign is defined as being a commercial message, right? It's very broad. But it has to be visible from a public right-of-way or adjacent property. So if the person has that sign that you're talking about, and it's on the door or in their driveway, but it's way on their property, mean you can't see it from your roadway, it's not a sign. So the sign that you're talking about could be done and it would still meet the definition of the code because you could put it on your door and it would never be visible. If they put only like a one-by-one sign, there's no way that's visible from the roadway if it's 30 feet away or more than 30 feet away, if you follow me, or behind a bush. So if somebody's walking, they know where the address is, and they walk up to the door and they see, you know, massage or whatever, that's not a sign. It's only if they put the sign out by the roadway, and it's visible from the driveway or an adjacent property, that it would be considered to be a commercial sign and subject to regulations. So this is, basically, saying you can't do a sign that's going to change the character of the neighborhood, meaning like a ground sign or something out there that changes it.

Mr. Crawford: Okay, well, if that type of sign would be allowable ...(inaudible)...

Mr. Alueta: You gotta use the mike.

Chair Cosma: Then I think it should be worded in here, in the language, 'cause it just says no signs so like if it's something small on the house, you said not near the road or something?

Mr. Alueta: Well, it's just what the definition of a sign is. In the case of -- there's very creative methodologies in which people can still get advertisement without meeting the code of meeting the definition of sign and that my example is you put the 1-by or 12-by-18 inch sign on the door but -- and the lettering is only that big, it's only visible once you step on the property and walk up to the door you see that there's a massage or a doctor's office or whatever, by definition of the county code, you're not a sign. It's only if I can read it from the roadway, then it's considered a sign. In the case of Ballantyne's once a year art studio gallery, there's nothing that prohibits those art studios by putting up red balloons. Tying red balloons to their or their property. And the thing says, "Here's an art studio. Follow the

red balloons.” That’s not a sign, okay? That’s just a market. Okay, so there’s creative ways, but sadly to say, I hate to say this, some artists aren’t very creative, they can’t -- okay, so you gotta -- there’s a thousand ways you can dice this and still meet the definition. But if you open the door, remember, home occupation did this for the residential district, home-based business is going to do this, if you open it more, you now are -- where do you cross the line between being residential and commercial, and that’s where I think, you know, Board Member Crawford’s got an issue, but if you wanna expand it, we can make that note that’s --

Mr. Crawford: Well, I think if there is a distinction between basically what this is no sign or display shall advertise the home-based business, so the point of this is not -- the point of what I’m saying is not to advertise; not to draw in customers; just for somebody who has an appointment with you to be able to find the place and know they find the right place. So if that would be permissible within this language, then I don’t have any objection to this as it is.

Mr. Alueta: Okay.

Mr. Ballantyne: Yeah, well, I’m still of the opinion that if we’re trying to allow people to earn a living with a home-based business, if that’s the purpose of the bill, and then you say to them but we’re just going to tie one arm behind your back and good luck, then it’s not really doing what I think we want it to do.

Chair Cosma: I have a question. Okay, say you have a business but it’s not placed in front of your home, your sign is somewhere else, away from your home, does that meet the county code?

Mr. Alueta: It’s an illegal sign.

Chair Cosma: Well, we have several -- I mean --

Mr. Alueta: Oh no, you got lots of illegal signs.

Chair Cosma: I know but I just wanted to know because you said people gotta come up with different ways. For Hana, people always improvise with what little we have, you know. They gotta think outside of the box. So that’s one of the concerns I had ‘cause there are signs that are not by the home so they put it along the highways, and after this takes into effect, how is that -- does that mean that comes down?

Mr. Alueta: That sign’s supposed to come down regardless. The signs -- offsite signs have been prohibited in Hawaii since I would say the early ‘70s when the -- by Outdoor Circle. I mean billboards are prohibited. If your sign is not located on the property in which

the commercial is occurring, it's called a "billboard" by definition. So they'll be illegal today; they'll be illegal tomorrow regardless of whether or not this passes.

Chair Cosma: And who enforces it? You folks? Nobody?

Mr. Alueta: It's based on a complaint basis so, Chairperson Cosma, if you wanna file those complaints, we don't take anonymous complaints anymore, therefore --

Chair Cosma: It was just a concern that I wanted to bring up.

Mr. Alueta: Alright.

Ms. Thomson: Can I just say, just briefly too, if, you know, if you're getting hung up on like the sign issue, you know, and a couple of you feel strongly there should be signs, you know, what they should look like, etcetera, you can submit individual comments too as testimony, individually testimony, not as a member of the Committee, so keep that in mind.

Mr. Ballantyne: As a point of a procedure, does it have to be quorum or not, or can it just be noted in the minutes that there is dissent as to whether there should be a small sign or there shouldn't be?

Ms. Thomson: If you're offering a recommendation as this Committee, it needs to be all four of you.

Mr. Alueta: So I'm going to move on from No. 5. How's that? And then so --

Chair Cosma: So we'll leave No. 5 as is?

Mr. Alueta: As is, and we'll just say there was discussion on whether or not to leave a sign. I'll make a note of that that there was discussion but to consensus to change it. So deliveries or pickups, you know, are you comfortable with that, No. 6?

Chair Cosma: Okay, deliveries and pickups. You know, to me, most people who don't rely on UPS, FedEx, they go out and pickup their own things. Is that something that -- does that No. 6 makes it different or have to go with just these carriers?

Mr. Alueta: The way they got it written, I would say yes. But the way the common -- if you look under the home occupation, it just basically says -- it limits it to single axle or double, you know, normal vehicles and so you couldn't have like these dually trucks or dually flatbed trucks making the pickups and delivery. It limit it to the axle size. So the way you're reading it is the way I would read it is that they're saying, well, you mean I can't deliver it in my car. You know what I'm saying?

Chair Cosma: And not only that but a lot of us depend on like Redo Express to bring in a lot of heavy things. We have a freight truck that come, they deliver like maybe icebox, furniture, besides UPS, FedEx. I mean they've been out --

Mr. Alueta: It's for commercial purposes, then, yes, this limits it. But if it's for your personal use, it does not.

Chair Cosma: Okay.

Mr. Alueta: So but if you're running a -- so what I'm saying is, yeah, if you need to get your refrigerator delivered, that's one thing. But you're having that same truck twice a day bringing materials for your home-based business, then that's a problem. What they're saying is just it has to be limited in size. So is there a consensus on keeping the language or -- but to expand it so that the person can do their own pickup and deliveries?

Mr. Ballantyne: I would like to just point out Maui County Veterans Council Paul Laub's comment, which is number G on his letter, I totally agree with him.

Mr. Alueta: What's he say?

Mr. Ballantyne: This says, "item 6 says that A) no customer may pickup their bought items, B) the householder may not go to the hardware store and bring home an item needed in his work and neither can his mom. Why? This egregious without benefit to anybody except common carriers. This section could be called "Destruction of local business." This stops all local trading for the home business," etcetera, etcetera.

Mr. Alueta: Yeah, that's why I'm saying should that not be expanded to allow the home person should do it but the vehicle should be limited in size. Do you have a concern with the size of the vehicle or no concern? Just -- or the person itself or the home occupant I mean the --

Mr. Ballantyne: These are always so difficult because of the catchall for the ten-acre lot where a guy is maybe trying to produce a glider and he needs a big truck to ...(inaudible)... the wing as, again, if you're in downtown in the subdivision in Kahului where there's only a 40-foot frontage, then, yeah, you don't want big trucks but I don't know what the compromise is.

Mr. Alueta: I would put up that this is deliveries or pickups not done by the home-based business operator shall be done by the, you know, by residential common carrier UPS. That way you don't put a limit on the truck size so you just open it up to say that only deliveries that are not done by the person themselves have to be done by these common carriers.

Mr. Ballantyne: I think that's a good compromise, personally. Yes.

Mr. Crawford: That's not really addressing the concern that he's raising in this comment though that like if there's somebody -- it shouldn't be defined by these particular commercial carriers. If somebody had a local delivery or a local courier service that was just a regular car and you wanted to use them, you should be allowed to do that.

Mr. Alueta: That's why it says "i.e." and not "e.g."

Mr. Crawford: Okay.

Mr. Alueta: If that makes sense. Okay.

Mr. Blumer-Buell: Yeah, I would wanna be sure it includes, you know, when people wants stuff out here they call Redo, they call, you know, Monte used to have a delivery service in Nahiku, I call my neighbor, Bradley Helekahi, so, you know, we need to include -- I mean out here, you know, I call around to see who's going to the other side and they'll do the same some other time, you know. So, you know, maybe we should just delete that. I really don't -- I don't think it matters who delivers it. If it's a nuisance to the neighbors, that's what the issue is isn't it?

Mr. Alueta: Okay, so is --

Mr. Ballantyne: I agree with deleting it. Yeah, because again, UPS doesn't even deliver here so not to the dwelling.

Chair Cosma: I agree. Just delete. So Members agree to delete No. 6.

Mr. Alueta: Okay. No. 7, "All goods, samples, materials, or objects used by the home-based business shall be stored within the dwelling unit, a garage, or an accessory structure hidden from public view." You guys good with that?

Mr. Crawford: Then I think the conflict that we have with that one with the 40% above has been resolved by changing that one so I don't have any problem with this one.

Mr. Alueta: Okay.

Mr. Ballantyne: Well, I do have a slight problem, unfortunately. Again, let's say I was a landscape architect or I did some outdoor sculptures and I put them in the garden, they on public view - I don't know. Is it too restrictive again? I mean I know they don't want a pile of materials waiting. I can see the purpose of it. The intent of it. But can't you put your

finished products on view if you need to? I don't know. I guess if nobody else objects, I'll go along with it.

Mr. Crawford: I can kinda see your point but I think that's probably not a significant enough factor that -- again, you're not supposed to be having like a gallery that's open to the public ...(inaudible)...

Chair Cosma: Excuse me. The Chair would like to call a five-minute recess, a couple-minutes recess, please. Thank you.

(A recess was called at 6:55 p.m., and the meeting reconvened at 7:00 p.m.)

Chair Cosma: I'd like to call the meeting back to order so that we can get home on time. Thank you. Okay, we were on number --

Mr. Crawford: Eight.

Chair Cosma: Seven? Oh, No. 8. I'm sorry. Okay, discussion on No. 8. "Customers shall be limited to two at any given time, with a total of sixteen customers per day."

Mr. Alueta: Is there consensus on that at least? Or at least no objections to it?

Mr. Ballantyne: Kind of unenforceable again but so ...(inaudible)...

Mr. Alueta: Okay. And then sales and service operation limited to 9 a.m. to -- this is just sales and service, so 9 to 6 p.m. Any objections to that or is that --

Mr. Crawford: Well, just going back to the other one, I'm trying to think of reasonable situations that might run afoul with this, so two seems like -- say you're doing like a counseling service, and it's a family counseling service so you wanna have two parents and a kid in the room at the same time, you know, it's like obviously that's the spirit of it, so is it important to make some kind of, you know, consideration for that type of thing or, you know, a legal service, I could see how if you're an attorney and you're consulting with some, you know, a business coming in, you might wanna have three representatives from that business come in and meet with you at the same time, you know.

Chair Cosma: And I think, for Hana, it's kinda unique 'cause people go in -- families, like they go together, they do a lot of things together, whether if they're customers or not customers, so that's the whole picture thing you need to look -- we need to look at the bigger picture.

Mr. Crawford: I can see the intent to restrict the overall amount of traffic, but I'm not sure if it's really practical to say you can only have two. You could be hearing all the other intent of the thing and still reasonably wanna have more than two people, two customers there at one time.

Mr. Alueta: Is that the consensus of the comments? I mean I can -- we can send those comments on saying that we understand the intent of trying to limit it, but there are practical purposes that would require more and that should be considered.

Mr. Crawford: That's fine with me. Yes.

Chair Cosma: Yeah. That's okay. So right now we're on No. 9?

Mr. Alueta: Yeah. So any objections to the hours of operation?

Mr. Ballantyne: I think they need to be taken into account, as you mentioned earlier, with the quiet hours, which are different to the sales and service operations, and I'm just thinking to 8:00, sorry, from 9 p.m. to 8 a.m., that's probably reasonable, the quiet hours, and that's when you want them to be quiet. Why can't we do sales and service between the same hours? I'm sorry, the hours that are left, which would be from 8 a.m. to 9 p.m.

Mr. Alueta: I think one of the intentions there was that, the sales and service, are you having customers come to your property between 9 and 6, potential customers between 9 and 6 p.m., but then you may be, as a crafts person or artist, may decide I wanna continue working, you're not making noise, but you're going to continue working beyond that time. So you may be grinding stuff but they don't want you grinding up till, you know, 9:00 at night, or you may be servicing, you know -- I think that was the intention that, you know, the operation can still go on but just that the sales and service --

Mr. Crawford: It's more the coming and going --

Mr. Alueta: Right.

Mr. Crawford: Would be restricted from 9 to 6.

Mr. Alueta: Correct.

Chair Cosma: I think the law is 10 p.m. though, right, for any kind of noise?

Mr. Alueta: Right. And I think -- but in this case, they wanted it to start at 9. If you're doing a home-based business, they want your quiet hours to be from 9. Everyone else is 10, residential.

Mr. Crawford: Why? I mean if you're allowed to be noisy just as a typical resident, then I don't know why you wouldn't be allowed to make -- why you have to stop making your home-based business noise at 9 but you can make other noises until 10.

Mr. Alueta: It's a noise law. It's only enforced by the police. It's not enforced by zoning.

Mr. Ballantyne: I got one -- just one more point. Most of -- I think the majority of the people in Hana kind of rise when the sun comes up and we're all going by 7 in the morning and maybe it would be more realistic to say 8 a.m. to 6 p.m. Again, it tends to be dark at 6 and that's probably reasonable.

Chair Cosma: So, wait. We just wanna reword it or just leave it the way it is?

Mr. Crawford: Well, do we have consensus that the sales and service operations could potentially start a little earlier and the noise -- the noise shall be consistent with existing noise ordinances?

Chair Cosma: We can word it that way, right? Change it?

Mr. Alueta: I'd hate to have you link it to an ordinance that we're not enforcing.

Mr. Crawford: I'm not necessarily saying that language, but I'm saying if the existing noise ordinance says 10:00, maybe this should say 10:00 too.

Mr. Alueta: Okay.

Chair Cosma: No. It is the law, 10, so it should be consistent, I think.

Mr. Alueta: So the comment is that the hours of operation -- are we saying "hours of operation" or just the quiet hours?

Mr. Crawford: Well, there's two different things. The comment Ian made was the hours of operation maybe could reasonably start earlier, maybe 8:00.

Mr. Alueta: So is there a consensus on when you guys want the hours of operation on No. 9, and then we'll do --

Chair Cosma: No. 9, we changed 9 a.m. to 8 a.m.

Mr. Crawford: That's fine with me.

Mr. Alueta: So 8 to 6 p.m. Is that a consensus?

Mr. Crawford: Yeah.

Mr. Alueta: Okay. So and then quiet hours should be consistent with the existing law, the existing quiet hours. Quiet hours shall be maintained from 9 p.m. to 8 a.m. during which the home-based business related noise shall not disturb anyone on the neighboring properties. So it should be same as existing law.

Mr. Crawford: It shouldn't be more restrictive than existing law.

Mr. Alueta: Okay. And No. 11.

Mr. Blumer-Buell: I would like to emphasize that I think this is the most important number of all of these things that all of these things should be subject to No. 11 that the home-based business shall not negatively impact the residential character of the property or neighborhood. I think that's the most important of all of this.

Mr. Crawford: My question on that, which you kind of addressed before, but how is that determined and enforced? Is that a complaint-based process? Okay.

Mr. Alueta: Okay, and then prohibited activities, it talks about, again, harboring and caring animals, and then, for some reason, it allows for two automobiles.

Mr. Crawford: Yeah, I definitely think that it should be B.2. should actually be moved to Section A rather than having an allowable activity in the prohibited section --

Mr. Alueta: Okay.

Mr. Crawford: So it should, you know, it should say the repair of automobiles and other vehicles, whatever --

Mr. Alueta: Shall be limited to two.

Mr. Crawford: To no more than two at any time.

Mr. Alueta: Okay.

Mr. Crawford: So it's actually a restriction, yeah. And then I also agree with what you brought up about the internal combustion engines, that's too limiting because like, yeah, does that mean you can work on an electric car or golf cart or, you know --

Mr. Alueta: Lawnmowers, chainsaw.

Mr. Crawford: Yeah, lawnmowers aren't actually vehicles, but I was thinking the same thing, like lawnmowers and, you know, so maybe it's a riding lawnmower, does that count as a vehicle and maybe --

Mr. Alueta: No. No.

Mr. Crawford: Okay so --

Unidentified Speaker: ...(inaudible)...

Mr. Alueta: Apparently you can fix those. It would be a -- I just don't wanna live next to that guy. I mean all the bad sounding chainsaws and --

Mr. Crawford: Yeah, but somebody -- somebody shouldn't be -- those don't count as vehicles then.

Mr. Alueta: No. But they would be allowed. What I'm saying is --

Mr. Crawford: They would be. Yeah. Yeah. Somebody with a weed-eater repair job or ...(inaudible)...

Mr. Alueta: Yeah.

Mr. Blumer-Buell: Can we add farm equipment to that?

Mr. Alueta: Allowing it or ...(inaudible)...

Mr. Crawford: I don't think we want to 'cause if you had a weed-eater repair shop, you don't wanna only have to have two weed-eaters at a time.

Mr. Blumer-Buell: ...(inaudible)...

Mr. Crawford: Well, but I think when it comes to vehicles, you probably do want that. You want to say we don't want somebody having more than two cars if you're doing a little home-based auto repair shop, you don't want a half a dozen cars all over your property. I mean maybe it's more -- maybe that should be limited more by the space consideration though than the actual number of vehicles 'cause as long as you can fit the vehicles within the 1000 square feet, then --

Mr. Alueta: Right. I think your -- it's limiting for automobiles and for vehicles that go on the road; it would not -- like your tractor, although you can drive your tractor on the road, it's not a registered vehicle, so I think that's the distinction. In this case, they're narrowing

what vehicles are allowed to be repaired. So if somebody wanted to fix tractor equipment, they could, and it wouldn't be limited to two, okay, but they would be limited again by the space.

Mr. Crawford: Why is that distinction important?

Mr. Alueta: I think it's -- they're specifically talking about automobile because automobile repair is a lot more common and so they want to limit it to two so you don't have a mini junkyard in someone's -- I think that's the intent of that is that they -- but what's interesting is that you can't repair, in the B-1 district, B-1 business district, you can't fix automobiles.

Mr. Crawford: At all.

Mr. Alueta: At all. So in this case, this home-based business is going to be less restrictive than one of our commercial districts. So it's kinda funny because they're allowing any vehicles to be fixed.

Mr. Crawford: Okay.

Mr. Alueta: But this is a common practice so it's --

Mr. Crawford: It seems reasonable to me that like we would wanna allow small auto work on a small scale and if limiting it to two vehicles is the best way to do that, then that's reasonable.

Mr. Alueta: Okay.

Mr. Ballantyne: Sorry, can I just butt in here a moment. Now that the chainsaws and the -- those really noisy type repair shops have been brought into question, maybe I'm more for having the quiet hours less than the legal hours because I'm the say as you, I would not want to be living next door to somebody repairing chainsaws at 10:00 -- 9:30 at night 'cause it's very intrusive. Normally, that sort of thing is limited to daylight hours, those noises.

Mr. Crawford: Would that not be restricted by any existing noise ordinance, somebody running a chainsaw at 9:00 at night?

Mr. Alueta: I'm not familiar with that. I know that leaf blowers are not supposed to operate before 8 a.m. I think that's a state law now. I don't know about chainsaws or I don't know about anything else.

Mr. Crawford: Well, I think that that just goes to the general negatively impact the residential character, property, or the last one, the repair, manufacturing, processing, or alteration of materials or objects that result in a detrimental effect or nuisance upon neighbors. So I mean if you're repairing chainsaws at 9:00 at night, you're causing a nuisance to your neighbor.

Mr. Alueta: Okay.

Chair Cosma: Yeah.

Mr. Alueta: So, so far we're good with B except moving No. 2? Okay.

Mr. Ballantyne: Oh, sorry. Yeah.

Mr. Alueta: Okay. And then 19.67, Administrative rules, Enforcement is -- those are pretty stock sections.

Mr. Ballantyne: Sorry. I realize you were moving on. Can we just visit 4 briefly? I would like to see the first - "The repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental effect," I would like to go back to "repair, manufacture, processing, or alteration of goods, materials or objects," and change it with "any home-based business that results in a detrimental effect." It's not limiting it then.

Mr. Alueta: Well, you have home-based business shall not negatively impact residential character of the property or neighborhood. And then you have "The repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental effect or nuisance upon the neighborhood." So those are two slightly different things. So you're saying --

Mr. Crawford: Is that just redundant though?

Mr. Alueta: One deals with -- 4, okay, clearly deals with the operating of the business practice of your business, meaning if your business involves the manufacturing, process, you know, alteration of goods or materials or objects that results in that, so you're obviously creating something, you're welding or grinding or you're manufacturing and that could create a detrimental effect. The other one is the operation of the business, meaning in the sense of like if you are -- and the general character, meaning if you have to put in five stalls or pave an area so that you can have your employees come here, meaning you changed the character of the neighborhood because I need five parking stalls, or I have to have -- I'm having all these offsite employees come, or you're changing how your -- the physical appearance of the property and the character.

Mr. Ballantyne: Okay.

Mr. Alueta: Or having so many deliveries all the time or something like that.

Mr. Ballantyne: Okay, could we add the word "activity" then? Any home-based business activity that results in a detrimental effect or nuisance. It just makes it broader. That's all I was thinking.

Mr. Alueta: Okay. Any home-based business or activity shall not have --

Mr. Ballantyne: Any home-based business activity, 'cause that's what we're talking about ...(inaudible)...

Mr. Alueta: Right. So you would put that under No. 11.

Mr. Crawford: So somebody couldn't say I'm doing something that's not technically repair, manufacture, processing, or alteration of goods that results in a detrimental effect or nuisance, but because it doesn't fall under one of those categories, it's not prohibited. I think he's saying let's just make it broad so anything that results in a detrimental effect or nuisance upon neighbors doesn't have to -- you don't have to determine whether it's one of the above other things to qualify for that.

Mr. Alueta: Okay. I'm just thinking whether or not it should go under 11 instead of 4, meaning the home-based business activity shall not have a negative impact. I'm just -- I'm just looking for an area where it's more appropriate. Maybe Corporation Counsel can chime in if they see something. I'm just trying to figure out where to get your point in.

Ms. Thomson: I think if I had to distinguish between 11 and 4, 11 is more of a standard of allowed activity limited just slightly, whereas, 4 says if it rises to the level of nuisance, and common law nuisance, and all of that, that that's clearly prohibited. So I would -- I'd be inclined to leave 4 in definitely, and then, you know, maybe work a little bit on 11 if you wanted to give more guidance to what's kind of allowed and not allowed.

Mr. Crawford: Well, with 4, does it make sense to just leave it in as it is or I mean would it take away from what you're saying if the wording was just any home-based business activity that result in the detrimental effect or nuisance among neighbors?

Ms. Thomson: I think you have to read it from the top of B, so the following activity shall be prohibited, so the following kinds of activities, repair, manufacture, those are probably typically noisy, loud, maybe smelly activities that could be a nuisance. Typical nuisance is going to be noise, you know, smell --

Mr. Crawford: Some kind of pollution.

Ms. Thomson: You know, light, things like that. Right. So I don't know. I --

Mr. Crawford: I'm just trying to think if there's things that wouldn't fall into the category of repair, manufacture, processing, or alteration of goods and materials or objects that could still result in a detrimental effect or nuisance.

Mr. Alueta: Yeah, that's -- I'm trying to think of the same thing, like --

Mr. Crawford: Like scream therapy.

Ms. Thomson: Right.

Mr. Alueta: We actually did deny a permit, a special use permit, for -- I'm serious. They're in Maui Meadows and they were doing marriage and part of their marriage counseling involved scream therapy and we ended up having to -- they denied the special use permit so --

Mr. Crawford: Okay. Well, that's an example of something that --

Mr. Alueta: But under this code, she would be allowed to do it. She wouldn't need a special use permit so --

Chair Cosma: It would be allowed?

Mr. Alueta: Huh?

Chair Cosma: You're saying it would be allowed?

Mr. Alueta: It would be under this thing. Her proposal, they could now do it.

Chair Cosma: 'Cause it's not based in here, right?

Mr. Alueta: Yeah, it's not in there.

Mr. Crawford: It's auto repair, manufacture, processing, or alteration of goods.

Mr. Alueta: So you, Mr. Crawford, you've come up with the -- but I think it would change the -- I think the home-based business shall not have a negative impact on the residential character of the property or neighborhood, and that's the reason it was denied is that

scream therapy was not considered -- it had a detrimental effect and it negatively impacted the neighborhood. So I think --

Mr. Crawford: I guess what we're trying to get to is that the object of No. 4 has to do with detrimental effect or nuisance upon neighbors, not so much what is causing that detrimental effect, so I mean can we just say the following activities are prohibited: Any activity that result in detrimental effect or nuisance upon neighbors?

Mr. Alueta: Is it possible to -- or is it possible to take that last portion of the sentence and move it to 11 -- I mean to add it to 11 also, meaning the home-based business shall not negatively impact the residential character of the property or neighbor, or have a detrimental effect or nuisance effect on the neighbor?

Ms. Thomson: I don't see why you couldn't do that.

Mr. Alueta: Does that sound reasonable? We add that last section of detrimental effect or nuisance upon the neighbors to the end --

Chair Cosma: Eleven.

Mr. Alueta: To the end of 11 also. I mean we leave it there but we can just copy it and put it up there. Is that -- okay. Is there consensus?

Chair Cosma: Okay.

Mr. Alueta: Okay. I can do that. So again, Section 40 and 50, Enforcement, is pretty standard stock language that we put at the end of any thing. And then Section 4. Yes?

Mr. Blumer-Buell: Yeah, on 40. I'm not sure about the Administrative rules, but I would like to see a time limit on these permits that they be non-transferrable and that there be a sunset clause in this requirement for a sunset clause and evaluation of this bill in three years.

Mr. Alueta: There is no permit. This is an allowed use.

Mr. Blumer-Buell: Okay.

Mr. Alueta: So it wouldn't need to be transferred 'cause it's going to go with the -- I mean it's an allowed use in all of the districts that they're listing this in, so there's no need to transfer any permit 'cause there is no permit. It's being by right. So this is not a special use -- like a special use permit or a B&B permit or --

Mr. Crawford: Which is what we want because the idea is to facilitate people being able to get into business with the least amount of bureaucracy and regulations as long as it fits within the residential character.

Mr. Blumer-Buell: How will the Planning Department determine when somebody gets a permit? I mean you'll give them a permit, right?

Mr. Crawford: There's no permit. This means that you can just do it in your house. And until somebody complains that you're causing a nuisance, you don't need to get permission for it.

Mr. Alueta: Correct. The current -- in talking with the chair of the planning committee, as I mentioned earlier, he was -- I pointed out that there's no permit also to him, and he was like, what? I thought we were going to get them -- so he's thinking now that council will require some type of registration form, meaning you will register saying I -- you will sign an affidavit saying I'm a doing a home-based business in my house at this address, at this TMK, and I agree to adhere to all of the provisions of 19.67. That's basically what he's looking at. That way we get it. We have it on file. We can say, hey, there's a home-based business here. And the tax office has a record saying this guys going a home-based business, therefore, we're going to tax him. And if they don't -- and if we find somebody that's doing a home-based business but they haven't registered, we would be able to cite them saying, he, you can't. But right now, as it is proposed, there's no registration process, nor is there a permit process.

Ms. Thomson: And that might be something that you wanna consider. If you do wanna have some kind of registration process tied in with this, it would have to be written into the code.

Mr. Crawford: I think if having a home-based business causes you to become commercialized residential, it's going to change your tax purposes, you'd have to have some kind of registration to go along with that. So I mean I think, in general, we wanna keep the overhead -- keep the burden on the business person, the entrepreneur as low as possible, and I don't think it should be a permit, so you're registering, you're not having to get -- it doesn't have to get approved. There's no discretion on the part of the county to approve or disapprove, but you're just saying this is what I'm doing. I am doing this commercial operation in my home.

Mr. Alueta: And that can be like a general comment at the end of this saying, under 19.67, there needs to be a registration, not a permit, but a registration form, or something.

Mr. Blumer-Buell: Where is the due process for somebody that doesn't want something like this in their neighborhood?

Mr. Alueta: This is it. You are part of the due process right now because you're making this an allowed use.

Mr. Blumer-Buell: Okay, what if -- but if somebody objects, you're saying that there's going to be a complaint-driven system?

Mr. Alueta: They would have to complain and then the department would then have to determine whether that complaint is legitimate and that there is a nuisance effect upon the neighbor, or they're changing the character of that neighborhood or property.

Mr. Blumer-Buell: Okay, last question on that. Can you tell me why Riki Hokama voted against this, this whole thing?

Mr. Alueta: I'm not familiar with the votes on this at all. It's just something that is transmitted down to us.

Mr. Blumer-Buell: Okay. I thought maybe you were there at the hearings.

Mr. Alueta: No. Moving on to -- this is where they're adding it into the various chapters. Again, they're going to make this an allowed use. They're already adding it to the residential district as an allowed use, not an accessory use, but an allowed use. In the rural district, which is the county RU-.5, and there's also county rural, they're adding it as an accessory use to the allowed uses within --

Chair Cosma: Where are?

Mr. Alueta: I'm on Page 4. And then they're adding it on Page 5, No. 7. And so it's in the rural district. So in Hana, although you do not have comprehensive -- you did not get comprehensive rural zoning, there is a lot of rural community plan areas in the Hana District, East Maui, so -- and it's being listed as an accessory use. The only thing the department has concerns with is that, recently, we did adopt the RU-2, RU-5, and RU-10 districts for rural and so it should be added to that. That's the only part that we would add. We think it will because this came down probably right after it was adopted. We also -- from the zoning administration, they have this thing where they eliminated stands, accessory -- where it says, "Goods produced off-premises are expressly prohibited," and so we're wondering why they chose to delete it. We don't know why. So, basically, you know, for the purpose of display in agricultural, floriculture stands, we don't know why they chose to delete that. As you know, you can have a, in the ag district or in the rural district, you can -- farming is an allowed use, and you can sell the crop that you grow on your property.

Mr. Ballantyne: Yeah, I've got an idea on this one. For instance, if I'm growing strawberries, and I want to produce strawberry jam but I don't have a certified kitchen, then I'd need to take it off the premises, have the jam made, bring it back, and sell it. So that would allow that by taking that "goods produced off-premises" clause out. Maybe that's the thinking behind it.

Mr. Alueta: Okay, so you're supportive of that in that aspect?

Mr. Ballantyne: Absolutely. Yeah.

Mr. Alueta: Okay. Alright. So does anybody have any concerns on this or you guys are all in agreement with the current proposal? 'Cause the way that works for us, currently, right, if you're selling goods, you know, made in -- manufactured in Thailand or China, it's prohibited, but there's nothing right now that prohibits it. So if you take that off, I can have goods and stuff produced off-premises. So if it's made in China, I can sell it in my stand.

Mr. Crawford: But that doesn't really relate to home-based businesses.

Mr. Alueta: No, no, no. It does not.

Mr. Crawford: Right. As far as we're concerned --

Mr. Alueta: Yeah.

Mr. Crawford: 'Cause that's already restricted under the --

Mr. Alueta: No, but what we're saying is council is proposing to eliminate that section even though it's not related to home-based business.

Mr. Crawford: Right.

Mr. Alueta: They've chosen to make this amendment, and it's part of their bill, and we're like going why are they doing this? And so our question is why are they doing -- from the department standpoint and, for us, we don't support that change because although I understand what he is saying and I think alternative language to take into account what you're talking about can be done, but I think that, you know --

Mr. Ballantyne: Yeah, I agree. I'm hearing what you're saying and I'm agreeing. What I'm thinking, again, is that a lot of the stands we have in Hana, they'll sell the neighbor's goods --

Mr. Alueta: Right.

Mr. Ballantyne: And just have one stand, and that should be allowable, and that will be covered by that. But I agree that we don't wanna be pulling in goods from wherever. And so maybe it should be worded such like anything not produced in Hawaii isn't allowed or --

Mr. Alueta: Correct. And, remember, this is the rural district, not the ag district. In the agricultural district, we allow for the selling, for ag stands, you can sell ag products provided that they're from the region. So your neighbors can get together and sell stuff, but you can't bring in papayas from the Big Island, which is what they do at farmers markets, and sell them at a fruit stand. You can sell them at a farmers market, but you can't sell them at your retail fruit stand on your property. It has to be something that's grown from the region. Okay? That's in the ag district.

Mr. Ballantyne: So why are you worried about it coming out here?

Mr. Alueta: Because this is the rural district, not the ag district. The ag district -- the rural district doesn't have that provision. Like I said, if the council wants to take that out, we can add language that's similar to what's in the ag district, which, you know, I got no problem with, but I just -- from an enforcement standpoint, we have problems. But getting back to the crux of the thing, which is home-based business, you know, you got no problem with it being added to the rural district, correct? Okay.

Mr. Blumer-Buell: With what?

Mr. Alueta: Adding home-based business as an accessory use in the rural district.

Mr. Ballantyne: Yeah. I don't think it applies to Hana, does it? We don't have any rural district do we?

Mr. Alueta: Yes, you do. You have lots of them.

Mr. Ballantyne: We do? Oh, okay.

Mr. Alueta: You have tons of rural. It's going to affect you guys more than anyone because you have a lot of rural lands. It's all community plan rural, and state rural, but it was never comprehensively zoned. You guys excluded yourself. So all of the -- all the lots, rural lots right on the way out to Hana High School, all those lots on both -- those are rural, where Vogel is and, you know Purdys, you know, all those lots, most of those are rural lots.

Mr. Blumer-Buell: Just for clarification, a number of the lots in Wakiu, between the fire -- the police station and the new Hana school have been zoned but there's quite a bit of rural land that is interim; in fact, I would say most of it is interim still.

Mr. Alueta: I don't think -- I mean maybe Clayton can chime in on how much land has been zoned in that area. I know when I was in current, which was years ago, I processed several change in zonings to rural, about three of them, but none of the -- most of the lots, if I recall, are still interim. There hasn't been that many that have been zoned because, if you recall during the comprehensive zoning to rural, Hana was excluded. So all the lots in Hana, all the owners, have to come in individually, and I know Purdys came in, I think, and then Hana Health Center came in for their zoning change, and there was probably one more but I don't know else has come in. Clayton, has there been quite a few?

Mr. Yoshida: I think that Gary Williams came in for the property near Kipahulu where they had five houses on a lot and, yeah. Yeah, they wanted to subdivide.

Mr. Alueta: Okay. Anyway -- okay, so, again, you have no concerns with the language of 1, removing the goods and produce off are expressly prohibited, taking that out, and then adding home-based business? Okay.

Moving on to 19.30A, which is the agricultural district. They are adding home-based business, again, as an accessory use as No. 14.

Mr. Crawford: In here testimony, Arabella brought up the question of that this should -- should be made a primary use as opposed to an accessory use, or a permitted use -- wait. A principal use as opposed to a accessory use. Okay, so what would that distinction mean in practical terms?

Mr. Alueta: If it wasn't ag related, right, which mostly it would not be, it would be in violation of state law because wherever we have county ag, we primarily have state ag. So the county has sort of dual jurisdiction over the ag lands. We've pretty much zoned anything that was state ag to county ag, and so the county can be more restrictive when it shares that joint zoning responsibility with the state, but it cannot be less restrictive. So that's why if you look at how we're allowing like single-family residences or, basically, farm dwelling in -- we're allowing it as an accessory to farming activities. That's the only way you can even have some type of dwelling structure on the ag land. This, again, would be accessory to that accessory dwelling in one aspect. So I think that by doing that, you're, one, protecting or preserving ag lands for what it's intended so it does not turn into, you know, a free for all in the commercial district. I think it's going to be -- I think it's a stretch. I'm not sure how the state will react to this ordinance, I mean I have it out for agency comments, as to state -- if the state even believes that we have the right to do what's being proposed. It's still up in the air because I think it's a stretch, but I don't know what the state will do. I haven't received their comments yet from the Office of State Planning.

Mr. Crawford: So if somebody was on ag land, and they have a legitimate agricultural operation, but they wanna supplement their income by offering massage therapy, that is

not incidental subordinate to or customarily used in conjunction with the principal use, so would that not be allowed?

Mr. Alueta: It probably would not be allowed, yeah. Customary or incidental to subordinate -- yeah.

Mr. Crawford: Because to me, I mean is that -- would that be a violation of state law or just a violation of this ordinance?

Unidentified Speaker: ...(inaudible)...

Mr. Crawford: Okay, so you have an agricultural operation. You're on ag land. You're doing a legitimate agricultural operation. You're farming. But you wanna supplement your farm income, which a lot of people may need to do so you wanna start a massage therapy business.

Mr. Alueta: It's possible that we would consider it to be incidental, meaning it's not a significance --

Mr. Crawford: So is that -- that's the definition of incidental? So if your primary business is agriculture and you're doing something to make money on the side that's supplementing that, that would fall under incidental?

Mr. Alueta: Yeah, I think that we could -- the department, you know, would take kind of a liberal view on that and some people may have taken "incidental" to mean dollar value, but some people have meant it to be: What's the primary purpose of the property? If the primary purpose is farming, right, then -- and you're doing 500 square feet of your house has a massage therapy, it's incidental to the larger farming operation. It may not make as much money, you may have a massage therapist and you may make more money than the farming, but the primary purpose of the whole property is still agricultural, and I think that's where -- and again, we would look at each case by case to see and it's determined at the time for zoning administration but they have made those calls in the past.

Mr. Crawford: Okay. Then I don't think I have any problem with it as long as there's some flexibility for that kind of a, you know, for that kind of a situation 'cause I think that probably ...(inaudible)...

Ms. Thomson: I took a really quick look at the state permissible uses within state ag districts and, you know, it is going to be -- it's a questionable call whether this is even going to be allowed in state ag or not, which would mean it would not be allowed in county ag. The other -- as far as though this body's recommendations, I was wondering if you guys wanted to consider home occupations because you're adding an accessory use for home-

based businesses but home occupations are not included right now either, and if we're making a distinction and recommending keeping both, you know, that might be something to consider.

Mr. Crawford: Yeah, it makes sense. Well, I see home occupations is under the rural. Home occupations is included as a principal use.

Mr. Alueta: Correct.

Mr. Crawford: So under -- in an agricultural lot would it be an accessory use?

Mr. Alueta: Yeah. At the time of -- and this is where it gets a little dicey is that at the time of the home occupation, right, the -- we did not consider it to be an allowed use in the agricultural district and that's why we felt that it couldn't be added there but it may be -- but the change in administration may feel that we should allow for it, so if that's the case, then we can make that recommendation, add home occupation as an accessory use in the agricultural district.

Mr. Crawford: Yeah.

Mr. Alueta: Okay.

Mr. Crawford: I agree too.

Mr. Alueta: Okay.

Mr. Blumer-Buell: Joe, how long -- I need to get going here pretty soon. I was supposed to be somewhere else an hour ago so when are we -- you know, it almost seems to me we should bring this back when the state has made their opinion.

Mr. Alueta: Well, we only have, again, there's only two other sections, which is the -- the only two sections are parking standards, which are just basically saying that you gotta -- no more than two parking stalls, and then the other one deals with the taxation and dealing with stating that a B&B, TVR, and a home-based business will be taxed as a commercialized residential, and that's all there is left on the bill. So I mean the way they got it written right now for parking --

Mr. Blumer-Buell: I mean I frankly don't agree with where this is at at all right now. And, you know, to not have an opinion from the state is just amazing to me that the state may come back with something completely different. I mean if they don't agree with this, then it's toast anyway.

Mr. Alueta: That's only for that one section.

Ms. Thomson: Right. You could make the recommendation that the planning commission inquire with the state to make sure that these kinds of uses are allowed in the state ag district.

Mr. Blumer-Buell: The way I'd like -- one of the things I'd like to do is just to have people on our board put out things that should be considered rather than try to wordsmith everything. I mean I have stuff I'd like to be considered. I don't support this bill at all at this point, and if there's an up and down, I'm going to vote against it, but there's stuff that I think should be looked at very carefully, you know, and I guess we'll get to that when it's -- when we get to the taxes.

Mr. Alueta: Okay.

Mr. Blumer-Buell: I'll stick around.

Mr. Alueta: Okay. So again, on 19.36 is your parking standards at the home-based business. The way they have the minimum parking requirement is that they're saying that a maximum of two parking spaces be provided, that the parking spaces are utilized between 9 a.m. and 6 p.m. -- are only utilized. So again, it should just say, if it's a home-based business, you should say how many stalls should be provided, not a maximum. I never heard of that before.

Mr. Ballantyne: Well, yeah. I mean it's all peculiar because you're not allowed to have any visitors and ...(inaudible)... two visitors at once and they want two parking spaces. It seems rather peculiar. And again, if we change the hours of opening from 8 till 6, we should change the times, and I don't know. I mean, to me, it's not necessary --

Mr. Alueta: Okay.

Mr. Ballantyne: To specify how many parking spaces you need.

Mr. Alueta: Okay. Is there a consensus on just striking it or at least saying a minimum of two -- I mean minimum one parking space should be required and then with no limitation on its use? From the department standpoint, we just don't understand why there's a limitation on when you can use the stall. If I put a stall in, why -- I mean I can't park there, or no one else, my visitor can't park there?

Mr. Crawford: It has to be empty overnight. It doesn't make any sense.

Mr. Alueta: Yeah. I mean so, from that aspect, we don't understand. If anything, we would recommend at least have one parking stall at a minimum, and then that's it.

Mr. Crawford: Well, I guess it depends on the nature of the -- if you're -- are there types of home-based businesses where you wouldn't necessarily -- that wouldn't be home occupations but you wouldn't necessarily have to have people, anybody come and going, so why would you even need one stall? I mean you should be required to put in a parking space if you're really not going to need it.

Mr. Alueta: Well, I think that maybe that needs to be -- or if you strike it, right? If you don't put anything in there, right, then you would make everybody subject to the parking ordinance as it stands. So if somebody takes -- has, again, a 5,000 square-foot house, or I'm sorry, we're limited to a 1000. Say they have a 1000 square feet of office retail or office space, right? They would be subject to the provisions of providing one stall per every 300 or 500 square feet, or whatever the current parking standard is, and I think what the intent here is that they shall not provide a -- they should only provide a maximum of two stalls. I think it's kinda weirdly worded, but if anything, I would strike the "utilize," when the thing can be utilized and leave it as a maximum of two, and then we can work out the rest.

Mr. Crawford: Yeah. I agree with that. I just don't think it should be minimum of one.

Mr. Alueta: Okay.

Mr. Crawford: A maximum of two, and then striking the time requirements make sense to me.

Mr. Alueta: Okay. Is there a general consensus? Okay. I'll -- and then the last section of the -- the last section of this is --

Mr. Crawford: Can I ask you one more question just on the other --

Mr. Alueta: Sure.

Mr. Crawford: Why are the okina's being removed?

Mr. Alueta: I have no idea.

Mr. Crawford: Okinas? Anybody know why the okina's being removed from Hawai'i and?

Mr. Alueta: I don't know. So do you wanna comment on that? We can make a general comment that -- are you supportive or not supportive of removing the okinas?

Mr. Crawford: I think they should be used where they're actually a part of the spelling of the word. Hawai`i is properly spelled with an okina.

Mr. Alueta: Okay.

Mr. Crawford: And since Hawai`i is -- the Hawaiian language is an official language and of the state.

Mr. Alueta: That's what we just talked about. But anyway is that a consensus on that, on the okinas? Okay. Alright. And then on the tax wise --

Mr. Crawford: Although I think Molokai does not have an okina in it so you can remove it from that one.

Mr. Alueta: Okay. Dealing with taxation, it's just adding home-based business to what can be considered to be a commercialized residential. Is there any objections to that at this point? Consensus on keeping it? Oh, I'm sorry. Actually, it might be a good time to stop. So again, the last section is just adding home-based business to that section so that it can be considered to be a commercialized residential.

Mr. Ballantyne: And, presumably, that's a higher tax rate?

Mr. Alueta: That is, as far as I know.

Mr. Ballantyne: Do we have any idea what percentage over -- and, presumably, you lose your exemption as a -- I forgot what the exemption is now, but is it residence?

Mr. Crawford: The question, but John's probably going to bring up the same thing, but the larger question of by losing the tax rate or is that a disincentive -- are you actually losing more than you're gaining so does it make it not worth it for anybody to do a home-based business because they're going to be losing that incentive? So, and if the answer is yes, you know, it's like we know that the county wants to generate more tax revenue, but are you just shooting yourself in the foot by having people take everything they earn in their home-based business to pay the commercialized residential rate?

Mr. Alueta: That's -- as a business person, you always do your calculations on the business plan as to whether or not it's a feasible business, and I think people need to take that into account whether or not if they do a commercial -- if they become a home-based business. I think that the whole point of keep home occupation and not having that commercialized will allow people to start up smaller business under the home occupation; if they like it, then expand maybe to what is considered a home-based business if they think they can generate enough money. From a tax wise, you're shooting yourself in the

foot. You have to understand the tax structure for Maui County is we only get the property tax. All your general excise tax, that doesn't come to the counties. It goes to the state. So we don't -- I don't think the county's really concerned with that. I think they're only concerned like if we commercialize you, then great.

Mr. Thomson: Ian, I looked up the tax rates. So commercialized residential is both for land and buildings charged at \$4.20 per \$1000 of value. And for comparison, homeowners, \$2.50; commercial is \$6.25. So, you know, it's kinda right in the middle.

Mr. Blumer-Buell: You know, one clarification of that is that the county council, it's my understanding, they reduced the home exemption by \$100,000 to \$200,000, so what people, you know, to have a home-business, regardless of whether you're renting the house or living in it, you're going to be giving up, this year, \$200,000 of an exemption, unless I misunderstand that they reduced it, plus you're going to have to, I'm assuming, that the standard conditions will require the -- whoever gets a -- registered for this or whatever to insure the county, so you're going to have at least 800 bucks of insurance on top of that to insure the county. You're giving out a permit without having the county insured?

Mr. Alueta: Again, there's no permit involved.

Mr. Blumer-Buell: Okay.

Mr. Alueta: This is just by right..

Mr. Blumer-Buell: Can I add a few things that I'd like to see the planning commission do that aren't part of this at all? The first thing is implement the Hana Community Plan 'cause we're still sitting here without information. On Page 14, No. 5, in the Hana Community Plan, it says, "Conduct an inventory and study of existing non-conforming uses including vacation rentals to determine: 1) their numbers; 2) geographic distribution and effects upon the local housing and real estate markets and the local economy and identify recommendations for resolving use issues." So I would like that to be considered by the planning commission. The second one, I would like to identify the tax impacts. I request the Maui County real property division to submit a short matrix/study showing examples of potential changes and impacts to homeowners taxes with the loss of homeowners exemptions. And enforcement --

Mr. Alueta: John? John, sorry, but is that tax impact relating the county reducing the exemption? Is that what you're talking about? Or you're talking about this one? Because I haven't read anywhere where -- is commercialized residential, do they lose the tax -- you no longer get the home occupation -- I mean tax break?

Ms. Thomson: The homeowners exemption?

Mr. Alueta: Homeowners exemption.

Ms. Thomson: I don't think so. I would have to check on it, but my understanding is that the whole property would be taxed at a different tax rate and you wouldn't qualify for the homeowners exemption.

Mr. Blumer-Buell: This has been an issue with the B&Bs and now the short-term rentals. They're not -- they're going to pay commercial residential and lose their homeowners exemption. The B&B people have been arguing that because they've given up their home exemption that they should be taxed at a lower rate. I ...(inaudible)... hotels. Anyway, the next thing is enforcement. How does the County of Maui intend to enforce the proposed ordinance? The proposed ordinance must be enforceable. The county has shown nearly no ability or will to enforce the bed and breakfast ordinance. What is the cost of enforcement compared to the additional income generated from new taxes? And, anyway, that's some of the information I'd like to see on the taxes, and I don't know how you wanna characterize it. I don't support this bill at this point, and I will write my own letter - my own letter with my own views. You know, I made the -- I misunderstood this thinking that this was going to be a permitted -- a short-term permitting process and would require -- and would allow for due process. I don't see any due process in here for neighbors that might not want a business in their residential neighborhood, and I think there's an issue that will have to be discussed at council about -- about this versus -- this whole thing just versus special use permits. I can see that a more stream-downed special use permit could be far better than what we've talked about tonight, and, you know, I appreciate everybody's work on this. Thank you.

Ms. Thomson: I think one of the things from a procedural standpoint is that if this Committee wants to adopt some or all of your recommendations, you'd need to discuss that now and then come to a consensus on it; otherwise, I'd recommend submitting them individually.

Chair Cosma: So, Members, you wanna --

Mr. Ballantyne: Yeah. Personally, no, I don't want to adopt any of them.

Chair Cosma: Okay, so Member Ballantyne --

Mr. Alueta: So all of the recommendations that you guys had by consensus you don't wanna adopt?

Mr. Ballantyne: No, no, no. John just made three or four points and he's asking, I think, the Chair is asking us if we want to adopt those and I'm saying no.

Mr. Alueta: Okay. But the recommendations that I have so far by consensus you guys are still good with 'cause that was my --

Mr. Crawford: John, are you comfortable saying, basically, we adopt these recommendations for the bill in its given form, and then you can write a letter on your own expressing your personal opinion about the larger context of whether this is an appropriate bill?

Mr. Blumer-Buell: I will do that anyway, but this is why we had all seven members here. At this point, we don't have, even if everybody disagrees with me, we don't have another member to vote for it. We need four votes to move this forward. So, you know, I'd like to just put it that we haven't reached a consensus on this bill, you know, until this whole thing is right, you know, I don't see approving it at all; in fact, I'd request that this come back to the Hana Advisory Committee for a hearing when this gets more flushed out.

Ms. Thomson: I think, you know, one of the things to keep in mind is that tonight really all of -- all what you're doing is offering comments and recommendations, and you can recommend that a more final version of the bill be brought back for further comment, or, you know, or you can comment individually. But right now, it's not approving or disapproving. It's commenting on it. And so the consensus that Joe's been through the whole list with you is whether or not you're comfortable as a body sending those comments up to the planning commission.

Mr. Alueta: And then, John, that doesn't restrict you, I guess, from putting your more further comments but as a body, are you -- I mean that's what I'm trying to get. We just spent three hours going through this line by line, and we got a consensus from everyone, including yourself, and so I'm just trying to find out are you now saying you don't agree with any of the changes that we've recommended?

Mr. Blumer-Buell: I don't -- when I understood that this is not going to be a -- some sort of a permitting process, even if a administrative permitting process, and there's not necessarily going to be anything but registration, no, I don't support it so -- I mean you can say that the Committee did not reach a consensus on the -- on the whole thing, and I think everybody should submit their individual comments. I mean, you know, there's -- there hasn't been -- you know, I'd like to discuss it a lot more, I don't have time tonight, but, you know, there's really some questions on my mind about how this really undermines our whole Euclidean zoning system, which has been, you know, which is really made to, as the Supreme Court ruled, that, you know, there's -- we have a right to restrict things to protect our neighborhoods and communities, and I think this goes way too far at this point.

Mr. Thomson: Can I offer a procedural comment? Because of at the outset of the meeting it was discussed that we would move through the items and have consensus on each point as we move through, procedurally, you already have had consensus on these items. So we're not now currently revisiting the whole procedure that we went this evening, so I would caution that we already have walked through that process and that you're welcome to submit your individual comments separately.

Mr. Blumer-Buell: Well, not to be argumentative, but I'd want each of the things to be read back at this point, you know, every single one, and I'd, you know, I don't think we have a, you know, the bottom line is do we have a consensus on the bill being passed with the discussion that we had, so normally you would discuss the points, see what the points are, and then either agree or disagree on the whole package at the end. And I'm not going to change my opinion at this point.

Mr. Crawford: The sense I get is that we don't have to necessarily support or oppose the whole bill to be able to make comments on certain sections of the bill, and we can agree on comments on the individual sections without saying that we necessarily support the entire bill. And I would hope that all of the comments that we have already agreed to would be -- would be furthered at expressions of the Committee.

Mr. Ballantyne: And I would like to add to that, John, if I may that let -- assuming that it does get stopped in its present form and whatever, that's one thing, but if for some reason it goes through, then we would want our comments to be included in it.

Mr. Alueta: And I think, if maybe Corporation Counsel can help me, that these are comments from the body, but the board did not have a consensus on approving the bill - I mean overall approving the bill as it presently is, even including the comments. I mean just saying that there's concern, there wasn't an agreement on approving the bill ...(inaudible)...

Mr. Crawford: And agree with that. I don't necessarily think, based on if we made all the comments, that would just support the bill at this point so --

Mr. Alueta: That you're not recommending approval of it, even with your comments, you're just saying that these our comments on the bill.

Mr. Crawford: Right. I agree with that.

Chair Cosma: As the Chair, I just wanted to comment that I think we spent numerous time here this evening going over each one carefully as a body to make sure that the language would help move this thing further. So that is the comment I wanted to make.

Mr. Alueta: Okay. And if you want, I can go back over the changes.

Chair Cosma: Well, John is requesting that you do that. Thank you.

Mr. Alueta: So, again, these are in general terms, and I'll refine the language later, but primarily for Section 1, you wanted to make it clear that --

Mr. Blumer-Buell: Could you just give the page number ...(inaudible)...

Mr. Alueta: On Page 1. Page 1, Section 1, on the definition, you wanted to include manufacturing or sales. So you wanted to add dwelling unit that includes the growing, processing, manufacturing or sales of product or the provision of service for consideration of profit. You also wanted to make it clear that, in the definition, that a home-based business is a primary residence for the operator of the home-based business. On Section 2 --

Mr. Blumer-Buell: Okay, I agree to add "sales" and making that the primary residence.

Mr. Crawford: Just a point of order. I mean we already agreed to these things. If we're going to go through and now you're going to disagree with half of them, is that the way this works or did we already agree to those?

Chair Cosma: I agree. But we just -- wanna hear him go through it?

Mr. Crawford: I don't even feel like it's necessary to go through them all, at this point, where it's getting late; we heard them; we discussed them all; we all had a chance to talk about them; we all asked, on each one of them, if we all agreed. I kinda feel like we should just wrap it up and go home.

Mr. Alueta: Okay. And I guess the -- then for you to wrap it up, I guess the only thing is you did hear some comments on two points: one is there was testimony on adding, potentially adding interim zoning as well to -- as an allowed use for home-based business, and then, again, if you have any other general comments that although it may not get, as the body, I can note them in my transmittal letter that you discussed it and there wasn't any consensus, and I think from what I'm hearing is that although you agreed on some of the comments, you don't necessarily -- you still don't necessarily agree on whether or not adding home-based business is a good idea. There wasn't a consensus on that.

Mr. Crawford: Yeah. And I agree with John on that point. I mean I appreciate the point he's raising. I just don't think it's necessary to go back through every individual point against at this point.

Mr. Alueta: It's up to the Chair how you want me to proceed. Madam Chair, did you want me to proceed or --

Chair Cosma: I change my mind because of the time. I don't think you should go back because it's just going to create more debate and we really gotta get going.

Mr. Alueta: Okay. So was there any comments on adding interim and also on the general bill itself?

Mr. Ballantyne: I agree we should add the interim and also the - I forgot what they call it now - but the substandard ag lots as a separate --

Mr. Alueta: Okay. They are already included under the ag. Was there consensus on adding interim or if there is not?

Mr. Blumer-Buell: On what?

Mr. Alueta: On adding interim. If a home-based business bill is adopted, that it be included in the interim zoning, which Hana has a lot of. That it would be allowed in the interim district.

Chair Cosma: Do we have consensus?

Mr. Crawford: I agree with that, yeah.

Chair Cosma: Thank you. Ian?

Mr. Ballantyne: I agree.

Chair Cosma: I agree.

Mr. Blumer-Buell: Yeah, if does pass, the rural should be included.

Mr. Alueta: Okay.

Mr. Blumer-Buell: Interim rural, I should say.

Chair Cosma: Interim rural.

Mr. Alueta: Yeah. Okay.

Mr. Ballantyne: What was the last point? Sorry, I was ...(inaudible)...

Mr. Alueta: Oh, whether or not, I guess because of what John has said, whether or not you guys -- was there consensus on approving the bill as recommended or that there wasn't any consensus on that. I got consensus from you that you would approve it as you've -- based on the comments, if your comments are included, that you would recommend approval of the bill. Does the board recommend approval of the bill with the changes?

Mr. Crawford: Well, I think John doesn't so we're not going to have consensus on that no matter what so I mean and if it's worth noting that as part of the process that, you know, are commenting on the individual portions of the bill, but we're not necessarily supporting -- we don't have consensus on supporting the bill as a whole.

Mr. Alueta: Okay.

Mr. Blumer-Buell: Chair, can I get clarification on one point, which I didn't understand? Page 5, No. 5, it had to do with goods produced off premises are expressly prohibited. I'm not quite clear on what the -- there was some idea of taking that out, but what's the -- what did the council have in mind?

Mr. Alueta: The council wanted to take that provision out. So it's currently in the law, it currently states that goods produced off premise are expressly prohibited, so as I pointed out, you could not -- you currently can't got down to Costco and sell stuff from Costco, or import stuff from the Big Island, or the Phillipines, China. It has to be produced on site. As Ballantyne -- Board Member Ballantyne pointed out, what if I grow strawberries or papayas, I don't have the ability to produce or process jam, I wanna take it down to a commercial kitchen, I then bring it back, this would prohibit -- it would prohibit me from doing that. So he's in -- he was supportive of taking that out, however, he did have concerns that products from Chine could be sold, which is what I've indicated. I recommended that the happy medium should be that it should reflect what's in the agricultural district or what is indicated in the Hana Community Plan that it allow for the sale of produce or products that are grown within the region instead so that --

Mr. Crawford: And again, this is rural --

Mr. Alueta: Rural.

Mr. Crawford: And it has nothing to do with the home-based businesses.

Mr. Alueta: That is correct.

Mr. Blumer-Buell: Okay.

Chair Cosma: Okay, next? Is that all?

Mr. Alueta: That is all I have for the home-based business. Does Mr. Yoshida have anything on the agenda?

E. ORIENTATION WORKSHOP

1. **Role and Responsibilities**
2. **Meeting Schedule**
3. **Office of the Corporation Counsel Handbook for Members of Boards and Commissions**
4. **The Sunshine Law**
5. **Ethics**
6. **Takings**
7. **Hana Community Design Guidelines**

F. DIRECTOR'S REPORT

1. **Scheduling of other Hana Region Applications**
2. **Discussion of Future Hana Advisory Committee Agendas**

Mr. Yoshida: Yes, moving on, Madam Chair, we would ask for a deferral on the workshop due to the lateness of the hour. We would just ask what day of the week that the commission would wanna meet? Probably the best for us is Mondays and some Thursdays. Is that okay with the -- Tuesdays are normally planning commission, urban design, Wednesdays are land use committee, Molokai Planning Commission, Lana`i Planning Commission. So any preference between Mondays or Thursdays?

Chair Cosma: So do we need to make a motion to defer that, the workshop?

Mr. Yoshida: Oh, for the -- for that home-based business? Oh workshop. Yeah, we would just ask that that be deferred to the next meeting.

So any preference on Mondays or Thursdays?

Mr. Ballantyne: Monday.

Chair Cosma: Monday?

Mr. Yoshida: Mondays?

Chair Cosma: I'm fine with Monday. How about you? Mondays or Thursdays better to have the next meeting?

Mr. Blumer-Buell: What's the exact date?

Chair Cosma: Do you guys know the exact date?

Mr. Blumer-Buell: ...(inaudible)...

Mr. Yoshida: Yeah, we would consult with the board members to see if we have quorum, but we just wanted to know if people have preference because of your individual schedules.

Mr. Crawford: I don't have a preference either way between Monday and Thursday in general.

Mr. Yoshida: The only other thing is we don't have any other Hana region applications currently, though I understand one is on the way, but it'll be several months before we can schedule that. And discussion on future Hana Advisory Committee agendas.

Mr. Blumer-Buell: I'm fine with deferring the workshop. On the future agendas, which I thank you for putting on there, I would like to put on the next agenda a followup to the expansion of the Hana Landfill. The Hana Advisory Committee to the Maui Planning Commission recommended a cultural impact statement regarding the county mining operation on Olopawa mountain, and I'd like to find out why that hasn't been done, and it was really -- some people from the Committee said they thought it was actually more of an environmental impact statement, but I do think a cultural impact statement will cover that.

Secondly, I'd like an update on the county's perspective on the PK-4 conditional zoning for Hana. The owner has not met any of the 21 zoning conditions. It's been at least 18 years. And the law allows for removing the zoning and I'd like to request an agenda item to get an update on that and what actions need to be taken.

And, you know, perhaps at the -- I guess to put it on there too, we received a copy of an updated SMA law that was signed by the governor. I appreciated getting that. It raised the -- I gave it a cursory look, it looked like it raised the SMA amount that triggers it automatically to \$500,000, and I'd just like to be able to discuss that and find out from the Planning Department, you know, and Corp. Counsel, what that -- what that really means. There's a very controversial issue regarding an SMA right now and I'm sure people would appreciate that. Thank you, Chair.

Chair Cosma: Thank you, John.

Ms. Thomson: Sorry. One quick clarification. On the Hana Landfill, do you mean the Hana Landfill or the Hana Cinder Pit 'cause those are separate licenses?

Mr. Blumer-Buell: The Hana Advisory Committee recommended a cultural assessment be done for the Hana Landfill and recognized that the mining operation was an integral part of that whole application and, frankly, the environmental assessment that was done was fraudulent, I'm happy to have it in the record. It was a fraudulent environmental assessment and they need to -- I wanna know why they haven't done the cultural impact that was agreed to be done. The county -- the county, they refused to recognize that the mining operation was an integral part of that whole project. They later -- they did recognize it and they had a planning commission meeting up at the cinder pit, they also had a meeting of the Hana Advisory Committee up there at the cinder pit in recognition that without that, without that dirty, you couldn't have the landfill even operating. So that's why I want to find out.

Ms. Thomson: I can look into this a little bit more. My understanding is that the State Land Use Commission was the accepting agency in terms of whether or not an environmental assessment or EIS needed to be prepared, and they found that they did not need an EA, and that's in the record of the Land Use Commission when they granted the license extension. So there are records online that can walk through the Land Use Commission process.

Mr. Blumer-Buell: Okay, I would appreciate, I don't know if I should call you, but I'd like to find out all the records you have. The county operated without any permit for 25 years so there was no renewal of the permit. And I wrote a letter to the State Land Use Chair, William Aila, registered -- certified the letter, he hasn't responded, and I asked to intervene in that whole situation, you know. They haven't event bothered to answer. So I think people deserve to know what is going on up there particularly since the Hana Advisory Committee, Kauai Kanakaole made the motion for a cultural impact statement. The county's in the process of destroying an important cultural site up there without a environmental or cultural impact, so I just wanna bring that to light again.

Ms. Thomson: Like I said, I can look into it a little bit more and I can tell you, you know, what the permitting or licensing issues are currently. As far as it coming before this body for action, you know, one way or the other, I don't know that this is the proper venue but I can try to provide some guidance the next time around.

Mr. Blumer-Buell: Yeah, I'm just asking since these things did involve the Hana Advisory Committee that the Committee -- that the information could come to the Committee so that the community would have some idea what's going on at this point. Thank you.

Mr. Yoshida: So with that, Madam Chair, I guess our next meeting is sometime in 2010. We would like to wish all of you a Happy Holiday Season - Happy Thanksgiving, Merry Christmas, Happy New Year.

Chair Cosma: Thank you. So somebody wanna adjourn?

Mr. Crawford: I move to adjourn.

Mr. Blumer-Buell: I'll second.

Chair Cosma: Second by John. Mahalo. And thank you everyone for coming.

G. ADJOURNMENT

There being no further business brought before the Committee, the meeting was adjourned at 8:24 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Lehua Cosma Chairperson
John Blumer-Buell, Vice-Chairperson
Ian Ballantyne
Scott Crawford

Absent

Ed Cashman
Kawika Kaina

Excused

Anjoleen Hoopai-Waikoloa

Others

Clayton Yoshida, Planning Program Administrator
Joseph Alueta, Administrative Planning Officer
Richelle Thomson, Deputy Corporation Counsel