

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

August 15, 2013

Council Chamber, 8th floor

CONVENE: 9:05 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair (in 11:02 a.m.)
Councilmember Elle Cochran (in 9:11 a.m.)
Councilmember Stacy Crivello
Councilmember Don S. Guzman (out 11:34 a.m., in 11:37 a.m.)
Councilmember Mike White

NON-VOTING MEMBERS:

Councilmember G. Riki Hokama (in 9:59 a.m.)

EXCUSED: VOTING MEMBERS:

Councilmember Gladys C. Baisa

STAFF:

Regina Gormley, Legislative Attorney
Yvette Bouthillier, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone conference
bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference
bridge)

Dawn Lono, Council Aide, Hana Council Office (via telephone conference
bridge)

ADMIN.:

Michele McLean, Deputy Director, Department of Planning
Joseph Alueta, Administrative Planning Officer, Department of Planning
Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation
Counsel

OTHERS:

Stephen West, ILWU Local 142 (PC-18)
Dave Jorgensen (PC-18)
Jack Naiditch (PC-30)
Grant Chun, Vice President, A&B Properties, Inc. (PC-32)
Others (8)

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PRESS: Akaku: Maui Community Television, Inc.

CHAIR COUCH: ...*(gavel)*... Will the Planning Committee meeting of August 15, 2013 please come to order. It is now about 9:05, and I'm Councilmember Don Couch, the Chairman of this Committee. Please, before we start, everybody in the Chambers turn your cell phones to stun or vibrate. I want to introduce the voting Members right now. Council Chair Baisa is excused from the meeting. Elle Cochran is excused for now, she'll be in a little bit later. Good morning, Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good morning, Chair.

CHAIR COUCH: And Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR COUCH: Good morning. And Don Guzman.

COUNCILMEMBER GUZMAN: Good morning, Chair.

CHAIR COUCH: Good morning. And Vice-Chair Victorino of this Committee will be here a little bit later, too. Alright. And then we don't have any non-voting Members but I believe Mr. Hokama will be here in a little bit. We have from the Administration Joe Alueta from Planning.

MR. ALUETA: Good morning, Mr. Chair.

CHAIR COUCH: We're going to get, I have on the list Michele McLean coming in.

MR. ALUETA: Yeah, I'll be filling in until she gets here.

CHAIR COUCH: Until she gets here. Okay, good. Thank you. And then we have Michael Hopper, Deputy Corporation Counsel.

MR. HOPPER: Good morning, Chair.

CHAIR COUCH: Good morning. We have our Legislative Attorney Gina Gormley. Good morning.

MS. GORMLEY: Good morning.

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CHAIR COUCH: And of course Committee Secretary Yvette Bouthillier, good morning.

MS. BOUTHILLIER: Good morning, Chair.

CHAIR COUCH: Members, we have four items on the agenda today. PC-30, which is Permitting Transient Vacation Rentals in Planned Developments Approved on or before April 20, 1981. PC-17, Establishing a Time Limit on the Duration of Conditional Permits. PC-18, Prohibiting New Time Share Units or Time Share Plans in Hotel and Service Business Residential Districts, and PC -32, Annual Compliance Report - Change In Zoning Conditions. So those are some of the things that we're going to have or the four items we're going to have today. We also have people from the District Offices. We'll introduce those folks in a minute. Members, if you have any questions or need clarification from any of the testifiers, please speak clearly into your microphone. This will help to ensure that the District Offices will be able to clearly hear and understand your comments or questions. Members, we're going to start public testimony in a few minutes. For those individuals who will be testifying in the Chamber, please sign up at the desk located in the back of the eighth floor lobby just outside the Chamber door. If you will be testifying from the remote testimony location specified on the meeting agenda, please sign up with Council Staff at that location. Testimony will be limited to the items on the agenda today. You'll get, pursuant to the Rules of the Council, each testifier will be allowed three minutes to testify per item and then one minute to conclude if requested. We'll have a lighting system going on there, and at three minutes the light will turn from green to yellow, and then at four minutes it will turn to red. Please stop when it turns to red. When testifying, please state your name and the name of the organization you are representing. Members, without objections, I'll now proceed to have, open up public testimony. Any objections?

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Thank you. Alright. Our first person to testify...well let's go with the outlying, the District Offices.

...BEGIN PUBLIC TESTIMONY...

CHAIR COUCH: Hana District Office, please identify yourself, and do you have any testifiers?

MS. LONO: Good morning, Chair. This is Dawn Lono at the Hana Office, and we have no one waiting to testify.

CHAIR COUCH: Okay, thank you. And Lanai District Office.

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MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office, and we have no one waiting to testify.

CHAIR COUCH: Okay, thank you. And from the Molokai District Office.

MS. ALCON: Good morning, Chair. This is Ella Alcon on Molokai, and there is no one here waiting to testify.

CHAIR COUCH: Okay, thank you, ladies. And we'll get back to you at the end of testimony to see if anybody else has shown up, and if somebody does in the meantime, it would be nice to, if you could, e-mail the Staff and we'll get them on the list. Alright. Our first testifier is Stephen West, he'll be testifying on PC-18, and then behind him will be Dave Jorgensen.

MR. WEST: Aloha, Council members. My name is Stephen West. I'm here on behalf of the International Longshore and Warehouse Union, Local 142, here to speak on PC-18. The position of the ILWU is, yeah, we do organize local members and we do organize timeshares, and we do have members that are in timeshares providing them with great benefits. So we are going to oppose this bill. And I'll make it short and sweet for you, that'll be it.

CHAIR COUCH: Thank you. Members, any questions for the testifier? I have one. Thank you, Mr. West, for coming and testifying. The question I would have is if this bill were to pass through and there would be no more timeshares, do you think that there, instead of timeshares it would be hotels that your members would be able to...in place of the timeshares?

MR. WEST: Well, you know, it's, that's hard to say. You know there's not a lot of people lining up to build hotels right now, so, you know, in this economy, I don't know. It's, that's an unknown. I would hope, but at this point I just don't see it happening.

CHAIR COUCH: Okay, thank you. Members, any further questions? Okay.

MR. WEST: Thank you.

CHAIR COUCH: Next testifier is Dave Jorgensen, followed by Jack Naiditch. And I'd like to acknowledge the presence of Ms. Cochran. Thank...good morning, Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. Excuse my tardiness.

CHAIR COUCH: No, no worries. Okay, Mr. Jorgensen.

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MR. JORGENSEN: Good morning, Chair Couch, members of the Committee, and Staff. My name's Dave Jorgensen. I'm appearing today on behalf of ARDA Hawaii, the local chapter of the American Resort Development Association, the National Timeshare Trade Association, and I'm speaking on PC-18. ARDA Hawaii is comprised of over 20 local members with 57 properties Statewide and 9 on Maui. ARDA Hawaii strongly opposes the resolution and proposed bill prohibiting the development of new timeshares in Hotel and Service Business Residential Districts. ARDA Hawaii has concerns about a proposal that would ask the Maui, Lanai, and Molokai Planning Commissions to consider placing a prohibition on an industry that has done nothing but contribute to Maui's economy. Timeshare resort occupancy was 88 percent in 2012, which means that timeshare owners and their guests serve as one of the most consistent providers of sustainable, long-term economic benefits to Maui. Furthermore, timeshares contributed on average, an average of 230,000 per unit to the local economy. This per unit spending creates and sustains jobs at a time when job creation is of utmost importance. The jobs being created are good jobs for residents with a per capita income for workers exceeding the Maui average. In addition, construction of a typical timeshare unit also creates jobs and wages for workers which also exceed the Maui average. As we discussed during the budget hearings, timeshare owners also contribute significantly to public facilities and government services through the payment of State and local taxes. In fact, since 2006 the timeshare industry and its owners have shouldered a disproportionate share of Maui County's tax burden. We went through the various numbers and comparisons in great detail previously during the budget hearings. Suffice it to say, this is an industry that substantially contributes to the local economy. Separate from the policy arguments, ARDA Hawaii believes there are several legal concerns regarding the bill. First, there's the general principle of land use law with many cases on point that zoning regulates uses of land, not forms of ownership. Timeshares like condominiums are forms of ownership created by statute. In the past, courts have struck down attempts by local governments to use zoning to discriminate between similar uses of land that differ only in the manner of ownership such as the distinction between apartments and condominiums. Second, a zoning classification permitting Hotel and Resort use but not timeshare units in hotel or resort-like settings may be ruled arbitrary, capricious, and unreasonable. In order to exclude timeshares as proposed, evidence must be offered showing that timeshare units and normal hotel and resort units represent different uses of land so substantial that they must be separated. Lastly, in order to satisfy equal protection requirements, there has to be a reasonable basis for treating hotels and resorts different than timeshares for land use regulatory purposes. We are aware of no circumstances that would satisfy these requirements. The timeshare industry and its owners are loyal, committed, and productive contributors to the community, and are a vital component of the hospitality industry and the County's overall economy. ARDA Hawaii is aware of no reasonable justification for the proposed amendment and no reason that this resolution should move forward. And we ask the Council Planning Committee to hold the resolution. Thank you for the opportunity to submit these comments.

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CHAIR COUCH: Thank you, Mr. Jorgensen. Members, any questions of the testifier? Seeing none, Mr. Jorgensen, I have one. Do you have that in writing that you could submit to us?

MR. JORGENSEN: We did submit, written testimony should have been submitted yesterday.

CHAIR COUCH: Okay. I might...it's missing somewhere. Alright, I'll go get it.

MR. JORGENSEN: A slightly elongated version of what I just said --

CHAIR COUCH: Okay.

MR. JORGENSEN: --but basically the same.

CHAIR COUCH: Thank you.

MR. JORGENSEN: And if it's not, if you don't have it, let me know and I'll submit it.

CHAIR COUCH: Okay.

MR. JORGENSEN: Thank you.

CHAIR COUCH: Thank you. Jack Naiditch, and Jack Naiditch is the last person to sign up to testify. Anybody else who wants to testify, please sign up in the back.

MR. NAIDITCH: Good morning, Chairperson and members of the Council and this Committee. My name is Jack Naiditch. I represent a group of owners at Kaanapali Plantation, and I'm here to testify about PC-30. I was at the last meeting two weeks ago where it was discussed that the bill would possibly include an amendment to drop the acreage requirement to nine. The Kaanapali Plantation consists of ten acres. It was actually a 30-acre project as originally designed but built in increments. It otherwise fully complies with the proposed ordinance. It's a planned development that received final approval, and at least one unit in the planned development was engaged in transient vacation rental on or before April 20, 1981. So that's the first prong. It's also a planned development located on parcels with at least some Residential zoning, and it consists of duplexes or multi-family dwelling units. All of...Kaanapali Plantation satisfies all of that except for the 25-acre limitation. As I've already testified on this matter so I don't want to repeat myself on the 25-acre limitation, because that's what's under consideration here today. But what I do want to point out is if there's any...there is a faction at Kaanapali Plantation that doesn't want transient vacation rental. The fact, however, is that the CC&Rs of the development specifically provide for transient vacation rental. It's been in

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the CC&Rs since 1975. There have been some attempts to amend the CC&Rs to take out that provision, but the majority of the unit owners have voted against it. What my point here is that there's always going to be factions, there's always going to be differences of opinion. Whenever you have two or more people, you have politics and you have differing opinions. And I, what I would like to say on this point is that I don't think it's appropriate to debate whether one faction is right or one faction is wrong on any of these projects. That's for these projects to decide internally, which our project has by consistently upholding the right to engage in transient vacation rental. We think we're similarly situated to Puamana which is what this bill is ostensibly about, and we would very much be grateful to be included in this bill by a reduction in the acreage restriction. Thank you.

CHAIR COUCH: Okay, thank you, Mr. Naiditch. Members, any questions? Mr. White and then Mr. Guzman, then Ms. Cochran.

COUNCILMEMBER WHITE: Thank you, Chair. Thank you for being here, Mr. Naiditch. What would you estimate the current percentage of units of the complex that are being rented on a short-term basis?

MR. NAIDITCH: At Kaanapali Plantation?

COUNCILMEMBER WHITE: Yes.

MR. NAIDITCH: The numbers vary. The problem...I'm not trying to be evasive. The problem getting a true answer is that not all owners use managers or use the management company, they directly book it. From what we can tell from direct, from bookings through other agents, it's at least a third. But I don't know whether they're all currently booked or whether there's other people who book by doing so online or --

COUNCILMEMBER WHITE: . . .*(inaudible)*. . .

MR. NAIDITCH: --on some other source.

COUNCILMEMBER WHITE: Okay. So it's somewhere between a third and a half?

MR. NAIDITCH: Well, that's my understanding.

COUNCILMEMBER WHITE: Okay, that's fine. Thank you, Chair.

CHAIR COUCH: Thank you. Mr. Guzman.

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COUNCILMEMBER GUZMAN: Thank you, Chair. Thank you, Mr. Naiditch, for coming here this morning and testifying.

MR. NAIDITCH: You're welcome.

COUNCILMEMBER GUZMAN: You're here on behalf of the Kaanapali Plantation?

MR. NAIDITCH: No, I'm not.

COUNCILMEMBER GUZMAN: Or you're here...

MR. NAIDITCH: I represent a group of owners at the Kaanapali Plantation who are in favor of a reduction in the acreage restriction on this ordinance.

COUNCILMEMBER GUZMAN: And what specifically is the acreage at your...

MR. NAIDITCH: Ten acres.

COUNCILMEMBER GUZMAN: Ten acres.

MR. NAIDITCH: Right.

COUNCILMEMBER GUZMAN: You happen to...I understand in reading the amendments here, there are some elements that need to be met and specifically the year, years that the planned development received final approval and so on, so forth. It has to have Residential district zoning and multi-family dwelling units. My issue here is with the acreage. I know that you were...the acreage requirement, I know that you may be advocating ten acres. Is that ten or nine acres?

MR. NAIDITCH: Ten. I'm advocating that we should be--we're similarly situated--should be included in this ordinance. I don't understand the 25-acre limitation. The only reason to set it at 25 acres is to allow one specific project in the County which is Puamana to be included in the ordinance. I have previously testified, I thought that smacked of spot zoning because it's favoring, it's discriminatory against other similarly situated projects by providing special zoning treatment as opposed to getting a Special Use Permit which is the way it's typically done. So I don't have good answers to why it's 25, 10, or 0. I don't have a good answer to that, and I'm not advocating the exclusion of other projects similarly situated that are less than ten acres.

COUNCILMEMBER GUZMAN: Right. And that's where I was leading to is that I guess my question was whether you know why it was only 25 acres and why not open it up to lesser, even lesser than the ten that you're advocating for.

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MR. NAIDITCH: I don't know why. I would imagine one issue that the Planning Department would have was, would have is how many other projects would be then able to blanket, to be included in this ordinance all the way down to one acre? I don't know how many there are. My sense is, since the limitation, there's a 1981 limitation on when the project was developed and that it had to have vacation rentals prior to that. You are not going to find a significant number of projects here that are planned unit developments as opposed to apartments, condominiums or Hotel zoned that would fit this bill. I think when we, at the last hearing...there's somewhere I heard there was a small project in Spreckelsville that probably qualifies. I do know that there was a second project that's been looked at in the matrix which is in Lahaina, it's a 42-unit development. I think about 20 or more owners there or approximately 20 are engaged in TVRs and the CC&Rs allow that. So I can't speculate as to how many projects are going to meet all these other requirements where the CC&Rs actually permit it. Because a project can meet all of these requirements absent the land restriction, but the CC&Rs say no, you can't engage in vacation rental. I know of many projects particularly in Wailea and Makena who don't allow vacation rental under their CC&Rs. They may otherwise be planned unit developments.

COUNCILMEMBER GUZMAN: Okay. Thank you, Mr. Naiditch. I guess I'm going to be addressing that same question to the Department. My question to the Department would relate to why the acreage limitation and how many other development planned projects are out there that are under the ten acres. And so maybe the Department will be able to answer those questions. Thank you.

MR. NAIDITCH: You're welcome.

CHAIR COUCH: Thank you, Mr. Guzman. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair Couch. And thank you, Mr. Naiditch, for being here. Your, you said you represent a group, and what's the percentage or how many people in your group that you're representing?

MR. NAIDITCH: Twelve.

COUNCILMEMBER COCHRAN: A dozen. Okay. And also with or without the changes, your area through CC&Rs, TVRs are permitted at this point?

MR. NAIDITCH: Well the CC&Rs provide for TVRs.

COUNCILMEMBER COCHRAN: Right. So yes, so the answer is yes?

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MR. NAIDITCH: Well you said whether it's permitted. It's permitted under the CC&Rs, the governing documents.

COUNCILMEMBER COCHRAN: Right. That's my question.

MR. NAIDITCH: But there's another issue as to whether it's permitted by the County law.

COUNCILMEMBER COCHRAN: Well I'm just asking that one question.

MR. NAIDITCH: Oh, okay.

COUNCILMEMBER COCHRAN: So yes it is?

MR. NAIDITCH: Yes, it is.

COUNCILMEMBER COCHRAN: Okay. Thank you. That's all. Thank you. Thank you, Chair.

CHAIR COUCH: Thank you. Members, any further questions of the testifier? Thank you, Mr. Naiditch. Anybody else wishing to testify up there? And I don't see anybody running down, and for the District Offices, can we...let's go to Lanai first.

MS. FERNANDEZ: The Lanai Office has no one waiting to testify.

CHAIR COUCH: Okay. Hana.

MS. LONO: The Hana Office has no one waiting to testify.

CHAIR COUCH: And Molokai.

MS. ALCON: There's no one here on Molokai waiting to testify.

CHAIR COUCH: Thank you. Okay, Members, with that, without objection, we'll close public testimony.

COUNCIL MEMBERS: No objection.

CHAIR COUCH: Thank you, ladies. Okay, public testimony is closed.

...END OF PUBLIC TESTIMONY...

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**ITEM NO. 30: PERMITTING TRANSIENT VACATION RENTALS IN
PLANNED DEVELOPMENTS APPROVED ON OR
BEFORE APRIL 20, 1981 (CC 12-17)**

CHAIR COUCH: Members, our first item up is PC-30 which we were just speaking with the last testifier. Let me talk a little bit about, to remind everybody what PC-30 is about. Our, this Committee is in receipt of County Communication 12-17, from Councilmember Elle Cochran, transmitting a proposed resolution that referred to the planning commissions the proposed bill permitting transient vacation rentals in planned developments that were approved on or before April 20th; correspondence dated March 6, 2013, from Council Chair Gladys Baisa, transmitting the correspondence dated February 27, 2013, from the Planning Director, transmitting comments from the Planning Commission in response to Resolution 12-99; correspondence dated July 18th, from Department of the Corporation Counsel, transmitting a revised proposed bill entitled A Bill for an Ordinance Amending Section 19.32.040, Maui County Code, Relating to Planned Developments, and Section 19.37.010, Maui County Code, Relating to Transient Vacation Rentals. The revised proposed bill incorporates a revision to change the year of the bill from 2012 to 2013. And, Members, that is where we'll be working off of is the July 18th correspondence in your binders towards the end of the binders. First we'll discuss, we'll ask the Planning Department to have, if they have any further comments on this.

MR. ALUETA: Thank you, Mr. Chair and Council members. The Planning Department, the only thing we have is that on category...for criteria four, under Paragraph H of the proposed bill where it reads "the planned development consists" this should be "*only* of duplex or multi-family dwelling units" was the recommendation I had from my bosses.

CHAIR COUCH: To say, to change that to say "only"?

MR. ALUETA: To add, insert the word "only", consisting *only* of duplexes or multi-family dwelling units.

CHAIR COUCH: Okay. We'll note that.

MR. ALUETA: And the rationale, my understanding is the rationale is that there are some, I guess to make it clear that it excludes I guess some Wailea projects. That was the, because Wailea is a planned development.

CHAIR COUCH: All of Wailea is?

MR. ALUETA: All of Wailea and so all of the individual properties, so it was to be "only of".

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

MR. HOPPER: No, Mr. Chair.

CHAIR COUCH: Okay, Members, Mr. White.

COUNCILMEMBER WHITE: You know in my recollection from our last meeting was the Planning Department was going to review the list and let us know how many planned developments would be included if we were to reduce this to the ten acre size limit, size max.

CHAIR COUCH: Yes. Mr. White, referring to I think probably the last item in your binder for testimony, there's a little matrix there. Okay, that was the matrix that we were talking about at the previous meeting, and there was concern that...

COUNCILMEMBER WHITE: Right, but they were supposed to go through the matrix and...

CHAIR COUCH: They did, and I have an e-mail that's being passed out in a second that basically they went through it and said it is valid.

COUNCILMEMBER WHITE: Okay.

CHAIR COUCH: He asked if I wanted a formal transmittal and I said nah, he can come and talk about it, but he's not here. And the e-mail is, talks about it a little bit. So if you look at the matrix, the only two others that would qualify would be the Alaeloa, and that might be, might change with the potential amendment, and Kaanapali Plantation. Everybody else, if it has a shaded area, that means that it's not, it wouldn't qualify under the rules. You guys want a few minutes to take a look at that?

COUNCILMEMBER GUZMAN: Yes, please.

CHAIR COUCH: Okay, why don't we recess for five minutes. . . .(gavel). . .

RECESS: 9:30 a.m.
RECONVENE: 9:37 a.m.

CHAIR COUCH: The Planning Committee meeting of August 15th will come back to order. Okay, Members, if you had a chance to read the matrix and kind of take a look at it, Planning Department had requested that we change on Page 2 of the bill Item No. 4, (H)(4), add the word...the planned development only consists, or consists of "only" duplexes or multi-family dwelling units. Is there any objection to that addition?

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COUNCILMEMBER WHITE: No objection.

CHAIR COUCH: Okay, so we'll do that kind of as a friendly amendment --

COUNCILMEMBER GUZMAN: Chair?

CHAIR COUCH: --if that's alright with Staff? Okay.

COUNCILMEMBER GUZMAN: Chair?

CHAIR COUCH: Yes.

COUNCILMEMBER GUZMAN: I have one question in terms of the amendment to adding the word "only".

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Is, would that...

CHAIR COUCH: Can you speak into the microphone a little bit?

COUNCILMEMBER GUZMAN: I'm sorry. Would that affect any of the existing or potential development plans that do now qualify if we don't put in the "only"? And if it does, which development plans are affected?

MS. MCLEAN: The bill...

CHAIR COUCH: Go ahead.

MS. MCLEAN: The bill as drafted would just apply to planned developments that received final approval and was operating as a vacation rental on or before April 20, 1981.

COUNCILMEMBER GUZMAN: Right, correct.

MS. MCLEAN: So it wouldn't affect any that are in process now or that came up after that.

COUNCILMEMBER GUZMAN: Okay, very good. Thank you.

CHAIR COUCH: Mr. Guzman, kind of a follow-up on that, and, Department, correct me if I'm wrong. There's one, well right now as the bill stands there's only one, that's Puamana, because the acreage is 25.

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COUNCILMEMBER GUZMAN: Okay. Thank you, Chair.

CHAIR COUCH: So at that point. Anybody else have questions, comments? 'Cause we have discussed this quite a bit. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. It appears that Wailea Ekolu and Wailea Elua on this list would also qualify. Is there a reason why they wouldn't?

CHAIR COUCH: Yes, because if you look at the matrix in D, they are not zoned Residential.

COUNCILMEMBER WHITE: Well Planning couldn't tell me what their zoning is.

CHAIR COUCH: Oh, well according to, I'm sorry, according to the e-mail we got, Planning said that the matrix is valid and correct.

COUNCILMEMBER WHITE: Okay. Alrighty.

CHAIR COUCH: And I believe in their CC&Rs, all of Wailea CC&Rs where they have...well, I'm sorry, Ekahi and Ekolu already I believe are transient vacation because of other...

COUNCILMEMBER WHITE: Yeah, I think it's all through those elements --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --anyway. I just want to make sure that we're covering everyone that needs to be covered.

CHAIR COUCH: Right. They're, they appear to be A-1. Okay. There was a question I think regarding CC&Rs versus County Code, and, Mr. Hopper, I just wanted to double check. If County Code says that TVRs are not allowed in a certain area but CC&Rs say yeah, you can go ahead and have TVRs, what has precedence? Just for the Members.

MR. HOPPER: Thank you, Mr. Chair. Anyone wanting to do a transient vacation rental, it would have to be permitted by the County Code. The CC&Rs are basically a private contract between the owners, and so if CC&Rs allow the use but the County Code prohibited the use, then the use would not be allowed by the County Code. If the County zoning allowed the use and the CC&Rs prohibited it, the County would not be able to enforce against the, someone doing a transient vacation rental, that would be up for the private owner. So the fact that CC&Rs may allow or not allow a use is not something that would affect the County zoning, and the County zoning would be independent of that and would regulate the property based on the County's authority through Title 19 and the Charter and State law to zone the properties. So they're actually both separate. The

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owner would technically need to satisfy both if he wanted to legally operate and not have enforcement action either from the County or from his own, his or her own community association. But the County has no authority to enforce CC&Rs, change them, et cetera, it can only deal with the actual Zoning Ordinance.

CHAIR COUCH: Okay. So in essence if County Code says no TVRs, it doesn't matter what the CC&Rs say?

MR. HOPPER: Yes. I mean the CC&Rs couldn't be enforced by the association against someone doing that, but the County Code could be enforced against them. So they'd still be violating the Zoning Ordinance and that would still prohibit even if the CC&Rs allowed it.

CHAIR COUCH: Okay, thank you. And, Members, the last, lastly...or does anybody have any questions or comments on that? Okay. Lastly, a testifier came up and asked that we take a look at the acreage. And after looking at the matrix and whatnot, it's the Chair's recommendation just to remove the acreage component altogether. Make it...I mean it's only going to affect one...Planning Department, what do you think? And I think it's only going to affect one other location, and we've had, there's mixed comments on that location. But I've looked at the bylaws of that location and it allows it, so it's totally up to the people if they don't want it in there to deal with that. And they've been trying and apparently it doesn't work. So, Planning.

MS. MCLEAN: Thank you, Chair. It appears that that might allow it in two other projects.

CHAIR COUCH: Two?

MS. MCLEAN: Kaanapali Plantation and Alaeloa.

CHAIR COUCH: But Alaeloa is mixed. According to this anyway, it's mixed single family and duplexes, so therefore with the "only" that we've already put in.

MS. MCLEAN: Oh, okay. Okay. Yeah, it's the structures. Then I guess it would apply just to Kaanapali Plantation, and that's a policy call for the Council, we wouldn't have objections to it. I think the Council has heard directly from owners and members from that community, so --

CHAIR COUCH: So...thank you.

MS. MCLEAN: --it's your call. Yeah.

CHAIR COUCH: Corp. Counsel, any comments on that?

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MR. HOPPER: No, Mr. Chair.

CHAIR COUCH: Okay. Members, this is a . . . might be something for heavy discussion and I don't want to do it as consensus, so I would entertain a motion to remove Section [sic] 2. . . Item No. 2 from Section H.

COUNCILMEMBER GUZMAN: So moved.

CHAIR COUCH: Okay, Mr. Guzman.

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: All right, it's been moved by Mr. Guzman and seconded by Mr. White. Discussion, Members?

COUNCILMEMBER GUZMAN: Chair?

CHAIR COUCH: Yes, Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you. Just hearing from the Department and following up my questions with Mr. Naiditch. These were the answers that I wanted to confirm that basically if we were to remove the acreage element there, that requirement, we're only going to be considering one more additional planned development and there's no other? Are you...that's confirmed, right?

MS. MCLEAN: To the best of our knowledge, yes.

COUNCILMEMBER GUZMAN: Okay. I think, Chair, you know, in my opinion, to keep this a very fair and, ordinance without having any future challenges to it in terms of it being made or amended for a specific development, this is a fair across-the-board to take the acreage element out of there.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Thank you.

CHAIR COUCH: Members, any further comment? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I would just, I agree with what Mr. Guzman has just stated, but I'd just like to add that I don't think it's right for us to have a development that has been using their or the people that have bought in with the

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understanding that they can rent them out for vacation rentals. And it's been that case for many, many, many years. It's very difficult for me to feel that it's fair to go in and for us just to take that away at this point, especially when the CC&Rs are in concert with the change that we're making.

CHAIR COUCH: Alright. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And thanks, everyone, for your spirited discussion here in regards to this. And, you know, hearing the clarification of Department, Corporation Counsel, and my Members sentiments in regards to this amendment, you know, I can live with that. I just want to make sure because it, Alaeloa which is in my district has been there for many, many years, that they have been...I guess we never really consulted with the residents there. So with Mr. Alueta's "only" addition, word "only", you know, it will sort of disregard that particular project. Is that, that's, am I, is that true? Is that correct, Department?

MS. MCLEAN: Yes, Councilmember Cochran, that would be the case. The Department proposed that clarification when the intent of this bill was for it to solely be Puamana.

COUNCILMEMBER COCHRAN: Right.

MS. MCLEAN: And if you did want to also include Alaeloa, then you could remove that "only", and I believe that it would apply to Alaeloa.

COUNCILMEMBER COCHRAN: Right. But no, I want the "only" to be there.

MS. MCLEAN: Okay.

COUNCILMEMBER COCHRAN: So with that change, Mr. Alueta, you folks proposed, you know, I'm agreeable. And so at this point...and then here Mr. Naiditch, you know, they already allow CC&Rs, so this will just sort of be consistent with what their CC&Rs are allowing at this point. And, you know, I have my issues I guess with TVRs and whatever, but I guess it's the people who live in those areas, these planned project districts that need to hash it out amongst themselves and deal with their CC&Rs. But this gives them the opportunity to allow it on our behalf as County, and within their own, you know, development, they need to discuss this and figure it out amongst themselves. So I'm okay with that. And again, Chair, thank you for bringing this through your Committee for this discussion.

CHAIR COUCH: Okay, thank you.

COUNCILMEMBER COCHRAN: And I think that's...

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ABSENT: None.

EXC.: Vice-Chair Victorino, and Councilmember Baisa.

MOTION CARRIED.

ACTION: APPROVE AMENDMENT.

CHAIR COUCH: Okay, Members, now we're on to the recommendation unless there's any further comments? Okay, it's the Chair's recommendation to approve the bill as amended. I'll accept a motion to that.

COUNCILMEMBER GUZMAN: Chair, did we add in the "only"?

CHAIR COUCH: Yes, that was a friendly.

COUNCILMEMBER GUZMAN: Oh, good, friendly amendment.

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: Okay, thank you.

CHAIR COUCH: So, I'll accept a motion to...

COUNCILMEMBER WHITE: So moved.

CHAIR COUCH: Okay.

COUNCILMEMBER GUZMAN: Second.

CHAIR COUCH: Okay, it's been moved by Mr. White and seconded by Mr. Guzman to approve the bill as amended. Any further comments? Chair has a comment. I wanna thank Ms. Cochran for bringing this up and we've discussed it quite a bit and so I'm glad that it's moving on. And if there are any concerns of the public out there, we still have first and second reading for you to come in and tell us about your concern. So that being said, any further comments? All those in favor, please say "aye".

COUNCIL MEMBERS: Aye.

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CHAIR COUCH: . . .(*gavel*). . . Will the Planning Committee meeting of August 15th please come back to order. Members, we're now on Item No. PC-17. It's Establishing a Time Limit on the Duration of Conditional Permits. We're in receipt of County Communication 13-136, from the Planning Director, transmitting a summary of the Maui, Molokai, and Lanai Planning Commissions' comments to a proposed bill entitled A Bill for an Ordinance Amending Chapter 19.40, Maui County Code, Relating to the Duration of Conditional Permits. The purpose of the proposed bill is to amend 19.40, Maui County Code, to limit the duration of Conditional Permits, including extensions, to a five-year period. First, let's talk to the Planning Department and let's hear your comments on this one. Ms. McLean.

MS. MCLEAN: Thank you, Chair. As noted in the transmittal, the bill, proposed bill was taken to all three of the planning commissions, and each planning commission voted not to accept the recommendations and to leave Chapter 19.40 as it is, so not to impose a limit on Conditional Permits. The meetings were relatively brief. Joe can provide the detail of the meetings, although there isn't much detail because they were quite brief. But the Department agrees with the positions and recommendations of the commissions.

CHAIR COUCH: So when you define relatively brief, it sure looks fairly brief in here. Any comments, Mr. Alueta?

MR. ALUETA: Thank you, Mr. Chair. The meetings primarily focused around that there are existing County Conditional Permits for County facilities such as landfill facilities where they are, this would impact Public Works in some manner. There's also facilities where you don't want to change the zoning for that projects because they're temporary in nature, such as a quarry or say a landfill facility where the property's on leasehold lands and the landowner wants the land, once the use is completed wants the land restored back to its original condition. And doesn't want to have it say in the case of the County landfill facility, wants it restored back to so they can then do agricultural activities on it. Nor do they want to have the up zoning, per se, in some cases. Also, you don't, in many of these Conditional Permits you don't want to essentially establish a spot Urban zoning in these areas. Conditional Permits are often used in some of our rural communities to provide some types of minimal urban services without actually going through and rezoning and creating a spot Urban zoning. As you know, much of the State Land Use Commission in reviewing new Urban lands, one of the criteria is that it's adjacent to existing Urban lands, so they didn't want to create a potential for that to, that spot Urban designation to grow. Further, the Council is the final body in which to grant Conditional Permits. If you feel that some Conditional Permit should go through the Change In Zoning process, you can either one, say require it, deny the extension and say we're not gonna, you know, put some kind of time limit on your, each individual case. Or if the use has been established for some time via a Conditional Permit, a member of the Council

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could initiate a Change In Zoning via resolution, again, if it was consistent with the community plan. That's pretty much what the discussions on all three planning commissions surrounded around.

CHAIR COUCH: Okay, Members, any comments on that, the Planning Department's...oh, you got everybody. If I'm not correct...this came in the last term and I believe it was a bill introduced by Mr. Hokama. Is that correct, Mr. Hokama, did you do this one?

COUNCILMEMBER HOKAMA: Possibly. I submit a lot of legislation, Chairman.

CHAIR COUCH: Did you want to make a comment first?

COUNCILMEMBER HOKAMA: Thank you, Chairman. And thank you to the members of the Committee. I think it was, it's pertinent for the Council through this Committee to review things in the Code that was established many, not years, decades ago, and whether or not we should still...if it still fits in this current time of the County's needs and the community's needs. You know I can recall not long ago when I started, Conditional Permits was one year, came back, three years, then five years. You know it wasn't 20-25 year permits. And so I find it interesting because I think one of the things that maybe the Department can help is what is temporary then permit, you know. Twenty years is a temporary permit. What is the purpose of the permit? I know it's to permit non-permitted uses in the particular zoning category by this type of variance that the Council gives or the State gives for Special Use Permits. I'm just saying that a permit should be temporary enough that there should be continued reviews of the non-permitted use that the permit allows through the course of its activity. I'm just wondering why the departments would push for 20-year permits, 25-year permits, because I think that is too long a length. I know and then Council has bought in, we've given certain applicants 20, I think 20-plus-year permits. I'm not comfortable with that. I think, you know, the appropriate body should have periodic reviews and not wait 20 years. I understand the component of the Planning Department's position that they pushed on the commissions about the rural components of the County, and that's how the Department I see pushed it on the commissions in the minutes that I read. I think though it's important for us to see if it is more reasonable timeframes that we should consider whereby the permit should come back for its appropriate review, and if they meet all conditions of the initial approval, there's no problem for a continuance and extension of the permit. But I think there should be additional reviews through a period or at the expiration of a permit for an extension that the appropriate department and approving bodies have a chance to review it. And then that's what I wanted to bring up, because there comes a point where we can make an argument, yeah, 25-year permit that's not zoning but I could call it temporary spot zoning, too. And I thought that was a position the County took that we would not go with spot zoning. So, you know, I bring it up because that's part of the history as I recall of this permits moving through through the various decades.

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CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: Chair?

CHAIR COUCH: Members...I think Mr. White, Mr. Guzman had their hands up first, but go ahead, we'll go ladies first.

COUNCILMEMBER WHITE: Yeah, that's fine.

COUNCILMEMBER CRIVELLO: Oh, thank you.

CHAIR COUCH: Ms. Crivello.

COUNCILMEMBER CRIVELLO: Thank you, Chair. I have to say I always appreciate Councilmember Hokama's insights and all his opinions that I take into deep consideration; however, I would have to say for areas like where I come from, Conditional Permits are a value. And, you know, you look at the establishment of it is part of it says will be in harmony with the area in which it is to be located. If I look at the East Side of Molokai, we have Manaie Grindz, it's a drive-in and a grocery stop-in or drop-in, and basically would we want, would us on Molokai that they be designated Urban maybe down the road someday, but not at this time. So I can see the use of our Conditional Permits. And I recall in my previous years when Hawaiian Tel became Verizon, Verizon always from corporate side, New York, says the only urban area in Hawaii is Oahu in their planning, everywhere else mostly is considered rural. So I think those are the considerations, and I can appreciate the applicant attempts coming before Council for us to make some sort of a determination. And I also base my respond to not wanting the, just to be for five years is because coming from the community of the planning commission, I appreciate even if Planning would say it was brief, they made their respective decisions, and their decisions was to not accept the limited five years restriction on the Conditional Permits. Though I agree that we need to come back and review, and maybe there needs to be or maybe there is some sort of venue that we do that and have that kind of review. But for now I cannot see us restricting to five years or else places like Manaie Grindz and, would have to always, would have to expand it for a rezoning. Thank you.

CHAIR COUCH: Mr. Guzman.

COUNCILMEMBER GUZMAN: Thank you, Chair. I just wanted to follow up with the Department. In your conversations with the planning commissions, the various commissions, Maui, Molokai, and Lanai, was there any talk as to the limitation of the,

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you know, going beyond 5 years or making it 10 years, making it 15 years, or was it just a flat-out no limitation, we don't want it, any type of time limitation on it?

MR. ALUETA: The...thank you, Mr. Chair. The focus was more on having a, the use...having the power to use the Conditional Permit but without being tied into automatically rezoning. I think there wasn't much discussion on the setting a new length. I think the time that would, you have your discussion as to whether or not a project should get a Change In Zoning or have some other venue to be entitled for what they want is when they come in for renewal. That's why you give it a periodic. And I agree, you know, from a planning aspect with Mr. Hokama, Councilmember Hokama that, you know, you get these projects that go on for 10, 15, 20 years, and it seems like the hands or government moves very slowly to the point where they finally say okay, you need to get a Change in Zoning. And often we meet with resistance because, you know, somebody's been operating for 10 or 15 years before we finally say hey, you need to clean this up. The classic example is probably, for me as a planner, I mean I started working on Special Use Permits for Fong Construction Baseyard out on Waiko Road. And Waiko Road was our de facto industrial area. Everybody came in, you know, Diversified Machinery, I mean all these old...some of these construction companies no longer exist, but they all had a baseyard out there 'cause that was as for, scrub ag land, easy access to two highways, and became like I say the...and they were all being, again, kicked out of the Industrial zoned lands where Walmart and Costco went. So they all had to find new areas. Eventually the community came around. For years and years there was this sort of, I don't want to say denial but opposition to saying we don't want to urbanize Waiko Road, we don't want to urbanize Waiko Road, but eventually as time went on, they said well, we'd rather have them get their Industrial designation and get the roadway improved on Waiko Road. And it's just to get someone to go from, you know, ag land to an urbanized land does take 20 years, and so if you're at the start, you know, you're the first guy in with your Special Use Permit and Conditional Permit to get established, it's kind of a test run. You know if there's true opposition, eventually that person gets, if he doesn't operate it correctly he gets kicked out. So I agree with that. But I think the other methodology that we're missing here in the whole Conditional Permit process is that if you get a lot of these Conditional Permits similar to what you had with say transient vacation rentals, STRs, maybe you need to start looking at the County Code and just say is there, should it be not at Council level but should it be at the commission level? And again, that's why when you see our Zoning Codes, the updates of our Zoning Codes, we have what's an allowed use, what's an accessory use, what's a special use. And so you need to start thinking where do you want quarries, should they be in the County, Ag, Rural, where do you want them? Where do you want your landfill recycling facilities? What districts? So you know they can be in the Industrial District but is there another area that's not so much urban that's going to be outside that could be covered under a County special use, I mean through the Special Use Permit process that only handles at the planning commission level? And I think the only way you get to that what I call

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bringing down, you know, downgrading that permit level is by seeing a lot of these. And so that's one of the things that, you know, when you see a lot of these Conditional Permits which you shouldn't but you do anyway 'cause people want them, is then realize should this really be somewhere else or is there someplace, another permit level that could be, in another district that it could work. And so but, no, I feel for Councilmember Hokama 'cause I've, you know, after 22 years you just see a lot of these Conditional Permits, and it's really an old Code as he says and you see reviewed. And it, you kind of want to say, no, you can't have it, but again, because it's a Council level permit, it's hard for Planning, for the Administration. You've got to make the decision when you see these Conditional Permits as to how long you're going to give them, do they need to get a Change In Zoning, or are you going to play, I don't want to say the bad guy and say no, you can't have this, you need to go to a properly zoned location and not be located here.

COUNCILMEMBER GUZMAN: I guess, Chair, my point was I was trying to get at, yeah, if the, I see the advantages of keeping the ordinance the way it is, the usefulness of the Conditional Permits. But I also want to analyze what Mr. Hokama is rationalizing in terms of not to exceed five years, and seeing whether, yes, of course, every legislation that we put out there, we should have a review process every so, every five years, every six years to see whether that ordinance is actually working at its full potential or is it having unsequenced [*sic*] results to it. And so it, this is an exercise in my mind to examine if there's any defects in the system right now. It may not necessarily be this particular one, but is there others that we can look at that connect to this so that we can start looking at some solutions. That's...and you've done a pretty good job in explaining some of them, but I was trying to get at whether it's this 25 years to 20 years, extension of these Conditional Permits is, how did that come about. And I think you've done a good explanation on that.

MR. ALUETA: I don't think...I think, mister...the way the bill is worded is that it says after a total of five years, and again, in the past practice of Council has always been the one, you get one year, one year, three year, three year, five year, five year. And that was pretty much...and then after that point, after your second five-year one they were like, okay, are you, do you really want, are you, should you be here, should you get a Change In Zoning or should you relocate? I think that was the past practice, and then somewhere, I don't know when, somebody...and actually I think it started with a very good organization. That's what it all starts off with, it starts with a really good applicant that has really good community, and I think it started out with Punana Leo O Maui. It was a Hawaiian language program that was on High Street, and they wanted ten years or some, longer than the five-year period. Once you let that one go, it was hard to say no to anybody else, and then it became the quarry and the batching plant operators that came in and says hey, we're investing 2 million or 3 million dollars in improvements here, 5 years is really not going to cut it, can we get 20 years? And, you know, once that occurs...and so you have to ask yourself, if it's not the Conditional Permit process then maybe we need to look at

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where, they were in the Agricultural District, maybe there should have been an amendment to the Ag District to say hey, maybe these batching plants or these types of uses should be allowed but as a Special Use Permit and not so much come back to Council all the time. I think that was the...I think the issue is they don't want to go, have to go through planning commission then Council every, you know, three to five years because it costs money to do that. Planning commission not so, I mean it still costs money but not as much. I mean the timeframe and the getting on your busy agenda is another factor. But again, if you, yeah, if you want us to put down another time than 5 years and say oh, after 20 years, you gotta think about it then, you know, I don't really, I don't think that was discussed much.

COUNCILMEMBER GUZMAN: Okay. Thank you for that insight. Thank you.

CHAIR COUCH: Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, and thank you for the explanation. One of the things you brought up was the Change in Zoning after a certain of length of time, but isn't it correct that we have the ability to initiate the Change in Zoning ourselves?

MR. ALUETA: Correct, that's what I had mentioned.

COUNCILMEMBER WHITE: And we can do that without, at this point, without an EA, I believe.

MS. MCLEAN: It would be the Community Plan Amendment that would be the trigger for the EA, so oftentimes land use designations require both a Change in Zoning and a Community Plan Amendment. But if it's just a Change in Zoning then there isn't an EA trigger.

COUNCILMEMBER WHITE: Okay. And I agree that we should be looking at providing review provisions, and I, you know, for anything over five years. But we have the ability to do that ourselves now, and probably should have done it on some of the other measures. So I agree with Member Hokama's sentiments, but when I see how much time and energy goes into reapplications or extensions or anything having to do with both the commission and the Council, I'm a difficult time making people go through that process more often than absolutely necessary. So anyway, I thank you for the explanation. Thank you, Chair.

CHAIR COUCH: Thank you. I have a couple comments and questions. First question is I believe in last term this Committee and the Council allowed for Conditional Use Permits

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renewals to go, be administrative and it doesn't have to come to Council anymore, is that right? Or is that just special? I thought we had that as one of the...

MS. MCLEAN: That needs to be stated in the initial Conditional Permit Ordinance. There're many existing Conditional Permits that come in for renewal and their existing requirements say that they need to be approved by Council or the renewal needs to be approved by Council. If it's a brand new Conditional Permit that comes to Council for the first time then Council can allow those to be approved administratively, allow extensions to be approved administratively by the Director, but that's Council's decision when the first one comes to you, and what the duration is.

CHAIR COUCH: Okay, so it's kind of half-half. So if another one came to us that's been around for a while and it's a not, for instance, a quarry that has an end life 'cause when they're done with it we don't want it to be M-3 as which is what they would have to do if they wanted...I think, or something like that. So that's why we continually allow Conditional Use Permits. So if they come in for their extension and we say okay, next time we can remove that condition and say they can just be administratively renewed, is that right, mister...or Ms. McLean?

MS. MCLEAN: Yeah.

CHAIR COUCH: Yeah.

MS. MCLEAN: Yeah, and that is Council's --

CHAIR COUCH: Okay.

MS. MCLEAN: --prerogative. At the same time, if the concern is that there needs to be review, you don't want these long, long time periods --

CHAIR COUCH: Right.

MS. MCLEAN: --then...

CHAIR COUCH: That was my next, my next comment was...

MS. MCLEAN: You need to balance those two things.

CHAIR COUCH: What about a combination? For instance, again, on a quarry or possibly the landfill or something like that where we can say, yeah you get your 20-year Conditional Use Permit but come back for at least for review. Just come back and, like we do annual compliance reports or something like that just so that we know there isn't a threat of

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anything unless they're really, really bad and we can always change the, we can always revoke Conditional Use Permits, right, even if it's...so if it's a situation where we think, you know, 20 years is fine for them to go through the whole big process. But come back and review with us every five years, every three years, something like that. That might be a potential compromise to this, and we have that power to do that right now, in my opinion. I mean we can make that as a condition. And lastly, the question I have, for instance either the quarries or batch plants or the landfill, is the landfill a Conditional Use Permit or is it just special use?

MR. ALUETA: ...*(Inaudible)*...

CHAIR COUCH: Yeah, I believe it's a Conditional Use Permit. So we know it's going to be a landfill, and because it's not adjacent to another urban use, I guess the question would be then do we change the Ag zoning, I believe it's in Ag, do we change the Ag zoning to say oh yeah, special use now is landfills? So is that your understanding?

MS. MCLEAN: That was sort of a general comment I wanted to make is that sometimes the State designation will allow a use but County zoning doesn't so you need a Conditional Permit. Other times State doesn't allow it but County does so you just need a State Special Use Permit. So in those cases one gets approved by Council, other by commission, then on top of that...sometimes they require both, but then in addition to that, State law gets revised, Title 19 gets updated and sometimes it eliminates the need for those. Those uses become either permitted outright or requires a lower threshold of approval. So with the landfill, that actually might be permitted in the State Ag District, I'd need to check but it might be permitted, so it might be you just need the County level. But for the County to change to a zoning that allows it, you'd need to change the State designation which as --

CHAIR COUCH: Right.

MS. MCLEAN: --you've both pointed out you might not want to do. So...

CHAIR COUCH: There's our dilemma and the reason we have Conditional Use Permits, I guess, so, and possibly lengthy ones. I totally understand where Mr. Hokama is coming from in that we don't want a lot of these, because that kind of defeats the zoning and the planning and whatnot. But at the same time there are instances where we do need that kind of flexibility. Okay, Mr. Hokama.

COUNCILMEMBER HOKAMA: Chairman, first I just want to thank the Department and your Committee. I find this discussion very healthy. I think it's long overdue. I created, you know, in recalling, I remember trying, you know, what, I decided to put forth a proposal that would stir response.

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CHAIR COUCH: That's not normal but for you.

COUNCILMEMBER HOKAMA: And so the proposal is what it is. And again, you know, I rely on your Committee to, you know, provide Council with a very good recommendation, whatever it may be. But I appreciate my colleague from Molokai. I agree, every island of our County has unique situations and unique needs, and there is a purpose why we would then allow the Conditional Permit process to be utilized. I agree and I understand that, and I've supported Conditional Permits. But I think it's, again, you know, as Mr. Alueta 'cause he recalled it like I recalled it, for the longest period we followed that process, the one, three, five. And I thought it was working pretty good because there was that periodic review for the extension and they would say we've met all the conditions, and then maybe through testimony we say okay, but such and such, so we might add another condition or we would say fine, everything's good, we'll...like State special uses or State land use commissions, they'll eliminate conditions upon compliance or completion. You know so my thing, Chairman, is it's interesting the growth of the Conditional Permits because now it's my experience going through round three of general planning and community plan updates that we've advanced planning and yet we still get more of this requests for the conditional or variance type of authorization. And I appreciate this discussion because I would like things to kind of mesh, and I think we're missing things because I'm going, you know, community participates, entities participate in community plan revisions and whatnot, and yet here we go with more Conditional Permit requests because it's not going to be allowed in that certain area, it's not part of the community plan. So I'm going, something's kind of not there yet, if you can appreciate my point of view at this time. And so what I hope part of this discussion is is with, maybe with the Department's, you know, experience and understanding of the various...and I glad you brought up, Director, that maybe it also needs to be part of a review of the zoning categories, and maybe some revisions in there might take care of the needs of certain type of permit requests. So I think that's a very good suggestion, and I think the Council should consider reviewing the zoning categories. And that is also part of the next one that I brought up because...well I won't say much because --

CHAIR COUCH: We'll get there.

COUNCILMEMBER HOKAMA: --it's the next item. But, you know, I appreciate it. I like all the questions that your Members bring up and yourself, Chairman, and I just appreciate it that you took it up for a discussion. Where it goes, I'm fine with it. I appreciate the commission's comments, particularly the concern about how it relates to a change of zoning consideration. That wasn't part of what I was thinking about at all, but I appreciate their ability to expand the parameter and look at the bigger picture. So thank you very much for taking this up this morning.

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CHAIR COUCH: Thank you, Mr. Hokama. And just to let you know, we are going through, the Planning Department is going through all the zoning categories, and right now we have the B, the businesses that we're just about ready to finish. And then we're, I think right on into Residential, right? I don't remember. But regardless...

MR. ALUETA: Residential, it's up here already.

CHAIR COUCH: Pardon?

MR. ALUETA: You already have the Residential.

CHAIR COUCH: Okay. So we are going through this and we are catching things that were just kind of left out in the middle of nowhere or new things that come in. I mean film studios, we added to the Light Industrial because right now it would have been a Conditional Use no matter where it would have had to go. So those kinds of things we are trying to catch and we are trying to fix, so thank you for bringing this up and thank you for the discussion. Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And, yeah, thank you, Mr. Hokama, for your insight, and Department's discussion, too, and fellow Members. So off the top of anyone's head, what's the nice round figure of how many of these Conditional Permits do we have out there? Roughly, guesstimate or something.

MR. ALUETA: I think, yeah, I would say less than 50. Some of these have, again, the vast majority probably were short term rentals or transient vacation rentals that may have switched over or will switch over to an STR Permit at some point. So or some may have, like I say, been covered under some of our changes where we downgraded it to like say a Special Use Permit in that district.

COUNCILMEMBER COCHRAN: Okay, all right. Less than I thought.

CHAIR COUCH: Yeah, yeah.

COUNCILMEMBER COCHRAN: Okay. Thank you.

CHAIR COUCH: And, Members, this, not this Committee but the Land Use Committee has, we just had one that has been getting a Conditional Use Permit and got a Change in Zoning, and we've got another one that's coming, both in my district. So people are doing it when it makes sense, but I don't know that I'd want to do a change of zoning to Heavy Industrial way out in the middle of the, a quarry at this point. Or well...and again, because of the whole it's not adjacent to other urban areas so. But I would be very open to maybe changing Ag to make it a Special Use Permit for things like that. Don't know, I

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mean that's up to the Department if they feel that that's a way to go, or any of the Members, things like that on specific projects, I'd be willing to hear them right away. So okay, any other further comments on this? Ms. McLean.

MS. MCLEAN: Thank you, Chair. I actually just made a note to review our Conditional Permit files, at least the most recent ones we all have saved electronically just to see what those uses might be, and to see if any of those are appropriate to revise the Code so that when those continue to come to you, we can make a note saying oh, we're adding this use because we had three Conditional Permits. Either adding it as a permitted use or maybe a special use rather than requiring a Conditional Permit. So we'll look at that on our side.

CHAIR COUCH: Okay. Members, any further questions? If none, Chair's ready to make a recommendation.

COUNCILMEMBER COCHRAN: Recommendation.

COUNCILMEMBER WHITE: Recommendation.

CHAIR COUCH: Chair recommends...also, first wants to thank Mr. Hokama for bringing this up for good discussion and sorry it took so long to get back to us, but after hearing the comments of everybody, the Chair recommends a motion to file this unless there's no objections? Okay, so...

COUNCILMEMBER GUZMAN: So move.

CHAIR COUCH: All right, so Mr. Guzman moved --

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: --and Mr. White. There's a motion to file County Communication No.--what is the number here? I'm looking for it, hold on--13-136...and a second, but it was made by Mr. Guzman and seconded by Mr. White. Any further comments? Okay, all those in favor, please say "aye".

COUNCIL MEMBERS: Aye.

CHAIR COUCH: Opposed? Okay, motion carries--one, two, three, four--five ayes and zero noes and two excused.

COUNCILMEMBER WHITE: I think it's six.

CHAIR COUCH: No, he...

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MS. MCLEAN: We'd just like to make two comments, Chair. One is just to clarify the heading of the item.

CHAIR COUCH: Okay.

MS. MCLEAN: So it's Prohibiting New Time Share Units or Time Share Plans in Hotel and Service Business Residential Districts. Time share units and time share plans are not currently allowed in SBR at all. Transient vacation rentals is allowed in SBR as a special use. This bill does not change, at all, the status of time shares which currently aren't allowed, and it would not allow them. Nor does it change the status of transient vacation rentals in SBR. Transient vacation rentals are currently a special use and with the proposed bill they remain a special use. So just for clarification's sake, in the heading of the item the words "and Service Business Residential" should probably just be taken out.

CHAIR COUCH: Yeah, that's just the item because that refers to the purpose of the bill.

MS. MCLEAN: But the bill doesn't have that as a purpose.

CHAIR COUCH: Oh, okay.

MS. MCLEAN: The only purpose of...what the bill does is to prohibit time share units and time share plans in the Hotel Districts --

CHAIR COUCH: Oh, okay.

MS. MCLEAN: --which is the only district that it's allowed in. Because of the way things are worded, it seems as if the SBR District is affected by the bill but it's not. It, that's just cleaning up the language.

CHAIR COUCH: Okay.

MS. MCLEAN: So I just...just so there's no confusion that the bill doesn't touch the SBR Districts.

CHAIR COUCH: Okay, we'll change the item title.

MS. MCLEAN: You really got us in a little tizzy trying to figure out what, wait, time shares are allowed in SBR? And then just at first glance and we haven't heard from Councilmember Hokama who's proposing it. In general, we feel that time shares are a desired component of the visitor industry, and that if they are going to be allowed, the Hotel Districts is the place to allow them. But we haven't heard recently from the

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community or others who believe they should be prohibited, so we're open to the discussion. You know again, our first impression is that it is a valuable component of the visitor industry and therefore could remain, but we're happy to have the discussion and hear from the community.

CHAIR COUCH: Okay. Prior to opening the floor to, for discussion, I would like to ask Corporation Counsel, I believe we had some testimony saying that there's potential legal issues with this. Any thoughts on those comments?

MR. HOPPER: Well, Mr. Chair, at this time you're being asked to approve the resolution to send this to the planning commissions, you're not being asked to approve the bill on, for either first or second reading or any final action, it's to send it to the commissions. So as far as the full legal review of the ordinance, we have not undertaken that yet and would need to look at those issues during that period of review which is normally after the planning commissions submit their recommendations to Council. Looking at it initially though, I would say that the section dealing with stating the prior to the effective date of this ordinance in the actual text, we would normally request either a specific date be placed in there or other clarification if there's going to be a cutoff date, because there's several ordinances that, and amendments there, too, that comprise this section. And it's specifying what the effective date is would be an issue. I mean in general, the County does regulate time share units and transient vacation rentals in separate methods. For example, transient vacation rentals are allowed in Residential Districts with Short-Term Rental Home Permits and time share units are not, but we would need to look further at the issues that have been raised by the testifiers in general during our review of the ordinance before signing off as to form and legality; however, that would not restrict...it would be up to the Committee if it decided to send this to the planning commissions by passing the resolution. Again, passing the resolution does not adopt the law, it sends the law to the planning commissions for the first step of review. So I would note that that's within the Committee's discretion at this point.

CHAIR COUCH: Okay. And just to let the Members know, we are taking a look at this to see if it's even...because your Chair has been not publically criticized but criticized for sending some stuff out to the Planning Commission without really looking at it in depth before going out there. And because the Planning Commission is saying why isn't Council doing this, they should be doing this. So, you know, it's kind of a balancing act at this point, so I want to just have a look, have our first look at it. Some things were brought up so that's why I wanted to ask that question, Mr. Hopper. Thank you. All right. So again, Members, if you don't mind, even though he's not a voting Member, this was raised by Mr. Hokama. I'd like to hear what he has to say as to his comments on this.

COUNCILMEMBER HOKAMA: Chairman, thank you once again for bringing this forward for some discussion. Unfortunately, you know, there is a, what I consider a companion bill,

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but I think it's in Mr. Carroll's Committee whereby Mr. Carroll's proposal is to establish a zoning category for time shares, I believe. I may be not totally correct, but that was my understanding that Mr. Carroll was interested in making a specific zoning category for this particular type of amenity. And so this is, was one way of me assisting, 'cause I was thinking maybe that might be a good discussion point of how we want to see zoning categories adjusted for the current County's needs and some of the future needs. I have a concern how the visitor industry is morphing, and for me, part of it is bastardizing zoning categories such as the TVRs being in Residential. I believe in the integrity of zoning categories, and I believe it strongly about Residential being residential, so I voted accordingly to my philosophy and my belief. I think it's time we take a look, particularly since we're updating community plans and everything else, where we would like to go with our visitor industry. I've no problems continuing to support the existing industry, but I would like us to develop further the other legs of our economy to be a more balanced County to provide more opportunities of employment to our young people and to our general workforce. But also to grow and give choices to our young people of the type of employment and the type of employment that...you know, I, you know, don't get me wrong, Lanai needs the visitor industry. You know we were just pineapple at one time, now we're just hotels. And it is important to our island, it is a major employer, but it makes me uncomfortable. Just like when only pineapple was the employer, it made me uncomfortable. Okay. Worldwide glut of pineapple or the need of no pineapple, what happens, look what happened Dole Lanai. Visitor industry changes, security requirements change, prices of transportation change. Lanai not being the top destination of our County, what happens to us then? I think we need to have a discussion of how to support the visitor industry, Chairman, but what should be its proper place in our whole economy. I do not believe it should maintain its 800-pound gorilla status on our backs. I think it should remain strong but I think we need to build on the others. I'm not willing to take away from others, but I think we need to make some choices in how we're going to move forward in land use zoning categories, and particularly components that I feel needs to be in stronger parameters regarding the type of visitor industry we want in the future. And so I bring this up for discussion. I think it's timely with the General Plan update and the community plans are moving forward for the various districts of the regions of the County. And again, you know, I think it's a time for very good discussions. And it's interesting how many law firms who chose not to identify themselves to my office about this regard, but because we have caller IDs we know who calling us, interestingly enough that they're not aware. It's interesting how they try to get information by not being truthful either about who's calling for information. So I just wanted to make that statement because it's interesting. I appreciated the ILWU's comment. I appreciate those that work for them. It's interesting how the law firms want to take a role in where we go forward with this important aspect of our economy, Chairman. Thank you.

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CHAIR COUCH: Okay, thank you. Just a question for the Department real quick on a comment he made about the potential new zone for time share. Have you heard of that? Because I would think it would come to this Committee.

COUNCILMEMBER HOKAMA: Land use would be a zoning issue, right?

CHAIR COUCH: Well no, we do Title 19 zoning here. I haven't seen one, so that interests me. I mean it makes sense.

COUNCILMEMBER HOKAMA: And again, I believe that was something...and it could be also...and I may be incorrect, maybe the vehicle that Mr. Carroll, if I...and again, forgive me with my age. It could have been a State legislative proposal, I may be incorrect. But I really recall that he went, he's pursuing this subject matter, Chairman.

CHAIR COUCH: Okay.

COUNCILMEMBER HOKAMA: But it might be through the State's statute vehicle version versus the ordinance or the Code. Thank you.

CHAIR COUCH: Okay. 'Cause that is an intriguing comment that, you know, if we maybe make a second, another set of zoning criteria, possibly that that might be something, a compromise. Okay, other...or did you have a comment?

COUNCILMEMBER HOKAMA: Chairman, one last thing.

CHAIR COUCH: Yes.

COUNCILMEMBER HOKAMA: I appreciate the Director's correction because I had concerns, too, what was the title of the posting and what I was trying to bring forward in the posting. It didn't quite match. But thank you for those comments because the Director stated correctly what was my more accurate intent with the discussion of this legislation, Chairman.

CHAIR COUCH: Okay. Good. Thank you. Department, did you have a comment on it?

MS. MCLEAN: Maybe I'm jumping the gun, I, but in regards to a comment you had made earlier, if it is the Committee's intent to send this to the planning commissions for review whether it's today or at some point, would you possibly consider having Corp. Counsel review the ordinance first?

CHAIR COUCH: Yeah.

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MS. MCLEAN: Because if there are concerns...and I didn't hear the testimony and I do apologize for coming late to the meeting. But if there are legal concerns then to go through the planning commission process if substantive changes need to be made, it would be helpful --

CHAIR COUCH: Right.

MS. MCLEAN: --for us to have that sorted out before it gets sent down.

CHAIR COUCH: Okay.

MS. MCLEAN: Thank you.

CHAIR COUCH: Ms. Crivello, you had your hand up first awhile back.

COUNCILMEMBER CRIVELLO: Well Director more or less clarified what I was looking for as to why we're going to send this out to the Planning Commission without some sort of review --

CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: --as to...I see the word "prohibit" and I really believe we need to have some sort of legal interpretation I guess before it goes to the Planning Commission. Also, you know, I'm trying to understand why it's going to the Planning Commission 'cause it will just come back to us I guess from them. So I think she's clarified. Thank you. I also agree with Residential for TVRs, though that's not what we're really talking about. But I believe Residential is residential, too, I have to support that. So just so that we can follow through with Director's recommendation, I think that would be good. Thank you.

CHAIR COUCH: Okay. Members, any further comment? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, I agree with the Deputy Director's recommendation to have Corp. Counsel take a look at this before we decide to send it to the commission. But I also feel that it's appropriate that we have the discussion, because we have a limited amount of Hotel-zoned land, and the economic models very different, are very different between hotel, time share, and condominium, condominium providing the least amount of jobs. And this, you know, we have testimony saying per unit, but if you take it per square foot, hotels provide significantly more jobs than time shares. Time shares provide significantly more jobs than condominiums. So I think it's time for us to have this discussion because we're talking about some of our County's most valuable real estate, and some of our...you know it's basically disappearing as hotels build out what

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they have remaining. Do we want to...I mean just from an economic standpoint, from a job standpoint, do we want condominiums taking up space that could be done either by time share or hotels and provide more jobs? Time share obviously generates significantly more, under today's methods of taxation they provide significantly more tax than hotels to the County, not to the State but to the County, definitely. You know just using the square footage of the original Marriott development, I just took the taxes generated as a hotel that's exposed to the full complement of GET, TAT, and property tax, and just used...I don't have, I didn't have the specific numbers for the Marriott but I just used the Maui average rates. And using Maui average rates and occupancies and so forth, the conversion of the original building from hotel to time share has generated more property tax for the County. But if you're just looking at that first building, it resulted in a significant loss of jobs. And so we need to take those things into consideration because we have limited capacity to generate jobs, and a lot of the job creation is along the shoreline. I don't want to eliminate time share but I think we need to be making the best decisions for not just property tax collection but for job creation. I totally understand where the ILWU is coming from, they are looking for jobs, and I think we should be as well. We were, well, we were approached by one of the large hotel companies, and so in the conversation they were looking at doing a joint venture to do a condo hotel or a time share. And I said, you know, just for the purposes of clarification, if you were not given the opportunity to do time share or condominium, would you still build a hotel? And the answer was absolutely. And it's largely because if you look at the STAR reports from Smith Travel Research, Maui's average rate is in the country is second only to New York City, and our occupancy rates are always in the, you know, roughly in the top five in the country. So yeah, this is a good place for cash flow. Obviously we have tax challenges, but it's with that in mind that I think we really do need to take a more serious look at this and have a lengthy discussion and some significant research to determine how to proceed. And I think, I appreciate Mr. Hokama bringing this forward. I'm not in favor of just slamming the door on anything, but I do think that the opportunity to provide a different zoning category is one that we should seriously think about. And so those are my thoughts. Thank you, Chair.

CHAIR COUCH: Thank you, Mr. White. You know since we are in kind of a information gathering, I hope the Members don't mind if I ask Mr. White, you know, we talked about you said a significant loss of jobs when the Marriott went from hotel to time share. Do you know the percentage or numbers?

COUNCILMEMBER WHITE: No. I'm sure there's going to be different people with different numbers, but the numbers that I got back when this was happening was it lost the majority of their banquet staff. They eliminated the luau which I don't know how many people were there. They eliminated a significant amount of their retail. So it's not just hotel jobs, it's jobs within other leased space within the hotel. My recollection was the total went from somewhere in the neighborhood of 750 down to 350 to 380.

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CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: And so these, you know, these are significant numbers. The number I didn't share with you was that they...while we can feel reasonably comfortable that the County didn't lose over, you know, over this timeframe, the County didn't lose ground on their tax collection. In fact they probably gained ground. But when I did this calculation back within maybe a year after the conversion, the difference between their total tax generation for State and County before and after was the amount of taxes they generated prior to the conversion was, would have been at the average rate and average occupancy for Maui been about 7 million. And it would have, and it dropped to I believe around, maybe and a little less than two or a little less than three. It's been a long time since I've looked at those numbers, but...

CHAIR COUCH: Now the State tax differences?

COUNCILMEMBER WHITE: Primarily State, that's because of the different way the tax, the TAT and GET are applied to a time share, because there's no, there's neither GET or TAT on the initial purchase. And they're taxed at a rate of, well the same GET and TAT rates, but they're taxed only on the maintenance fee, the annual maintenance fee, not any equivalent of what the units would rent for as a normal hotel unit or condominium unit.

CHAIR COUCH: Okay. And the next thing I would comment or a question I would have with, either for you, Mr. White, or for the Department. Is there any...I think there was a study done and it might have been by ARDA that the jobs at the time shares versus the hotel, there's less fluctuation, you know, less layoffs, if any, at the time share versus, you know, you may have 700 at the high season and then only three or two hundred in the low season or something like that, I don't know. Your experience with that since that is your business, Mr. White? Or the Planning Department, do you have any data on that?

MR. ALUETA: No from data, but that's the, that's what they tell us when they come in, you know what I mean? There's...the, during the, I guess, TVR/STR discussions we provided you, there was, in one of the staff reports there was a table that showed you the average daily spending from the visitors. Time shares were on the bottom, you know, cruise ships were on the top as far as daily spending outside. And then you looked at outside of the, as Mr. White has indicated, you know, the change in the type of jobs. From the hotel standpoint you lose a lot of those banquet facilities that are often used by, you know, conventions, so you lose that convention business, has been noted. You lose your senior banquet or your junior prom location, basically, when you have that conversion. So that's another thing from the community aspect that's been thrown out there during some of these discussions. But and then also that the jobs are less but they're more...either they don't pay as well but they're also more stable, so there's more

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of a stable income on the job side. But that's only from the discussions at the Planning Commission level when people come and testify and/or the sales pitch from the developer.

COUNCILMEMBER WHITE: And I guess the point I would make is that I can't address what happens in other hotels, but we generally simply work everybody overtime when we're busier. We don't, you know, we don't lay people off when we're, you know, when we slow down. But, you know, that's just us. But the question in my mind that we should be looking at is do you want a stable...and just using the Marriott example, do you want a stable three fifty or an eight hundred that might drop to seven from time to time but it's still seven instead of three fifty. So, you know, again, I'm sure we can slice and dice these numbers and that's why this is a discussion that needs a whole lot of research --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --before we go any further in any one direction or another.

CHAIR COUCH: Right. And I would like to acknowledge the presence of Vice-Chair Victorino of this Committee.

VICE-CHAIR VICTORINO: Thank you, Chair. And I apologize for being late, but I caught the tail end of Mr. White's discussion and some of the things he said. I may not have been in management but I was 23 years in the industry itself, and I worked next to the Marriott at the Kaanapali Alii when all the transition came. And, you know, like I've said before, we can talk percentages, we can talk dollars, but, you know, there is the part about people. And when people lose their jobs it is very challenging, okay. And I'll tell you, when they converted there were hundreds that were let go. Hundreds. I don't have the exact number and you I guess you could find somebody who would have that, but I know a lot of friends even in the security department which I was familiar with, they let almost half the security go because again, condo is a different than... 'cause they didn't have Banana Moon and all the other things were, you know, eliminated. So there was a lot of change when it came to the Marriott converting from the hotel to the condominium, I mean to the time share, excuse me, I apologize. So, you know, you gotta understand there's people in this whole equation. When we talk money, we talk dollars, we talk cents, we talk...but these people lose their jobs, they lose seniority, they lose retirements or whatever they don't get anymore, healthcare benefits. There's a lot of challenging people and I, you know, at that time we were lucky that Maui was still in a very good position and many of them were able to find jobs other where. But now they're displaced, their seniority drops down to where they were. I will say that being, that I worked at the Westin for almost six years, I can disagree with Mr. White, his hotel does it different than others. 'Cause our hotel, when it did get slow, people, hours were cut or people were laid off. You know it was profound. So I can say more study needs to be done, I agree. I think we need to do

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more research in this whole area. I will say that the time share industry has proven to be a stable industry, a consistent industry. You know we've seen the numbers, 85, 90, 95 percent consistently, even when the downturn 'cause people come, they let other family members, friends use their facility, because they paid for it, you know, and they put money into it so they want it used. So it's a little different scenario than a hotel, and hotels may drop to 60 percent during the downturn, 70 percent. Whether these condos...I mean these time shares, excuse me, I get, was trying to get that. The time shares were out there with 85, 90, 95 percent, so there is stability. But I also will tell you compared to Starwood that had the time share and Starwood employees at the hotel, there was a difference in pay, and generally the time share was less, so that I know for a fact. So again, I understand what Mr. Hokama is bringing forward. I know for a long time that the unions and especially ILWU opposed more time shares. I think they've taken a little softer stand overall, but still, it is a challenge when you convert hotel rooms to time share. Building new ones, the unfortunate part, we haven't built many new hotel rooms in a lot of years here on this island, more time share and condominiums. So I would hope that maybe there'd be a better balance in that area also. But economics drive some of this, and I can understand the economics of time share, because you get your money upfront, the developers get their money upfront 'cause these people purchase. So some different dynamics. I'm not an expert, I don't know everything, but I can tell you I worked during these times, I've seen what had happened. I had friends and family that were affected, and there are family and friends that are working in the industry today. So there's good and bad in everything, so I think more study needs to be done, Mr. Chair. Thank you.

CHAIR COUCH: Okay, thank you. Mr. Guzman.

COUNCILMEMBER COCHRAN: Oh. Go ahead.

COUNCILMEMBER GUZMAN: Go ahead, go ahead.

COUNCILMEMBER COCHRAN: Yeah, you can work your way down. No, that's okay.

COUNCILMEMBER GUZMAN: You're sure? I got cutoff, too. So go ahead.

COUNCILMEMBER COCHRAN: Okay, thank you. And...

CHAIR COUCH: Go ahead, Ms. Cochran.

COUNCILMEMBER COCHRAN: Okay. So I've been like chomping at the bit because I worked at Marriott for 13 years --

CHAIR COUCH: Oh, there you go. Okay.

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COUNCILMEMBER COCHRAN: --so I know the whole conversion, I lived through it personally. But first of all I just want to comment that I support referring this to Planning Commission. I think here we are, we're having a very lively discussion, and I think there, too. And it's about having the public come and chime in and share, you know, concerns and issues or, you know, approval or disapproval of what it is that's being presented. So just commenting quickly, Mr. White's figures I believe are fairly accurate in his guesstimation as in the loss of employment in these conversions. I did live through it, I worked at Marriott for 13 years, and I went through the hotel converting into time share. So yes, things get outsourced a lot, our whole housekeeping staff, we cut out room service. You know I was guest services, concierge, that got outsourced, that's where I lost my job but luckily got rehired by the new firm, things of that nature. So there's, you know, pros and cons as Mr. Victorino mentioned also, and so stability is who you talking to. You know time share is very high-pressure sales, and numbers, bottom line is numbers, numbers, numbers. And that's why they...things get downsized, and, you know, the ownership, what...I mean if you look at the back page of the classifieds, lot of foreclosures going on, in particular for time share. So the numbers off set on maintenance fees for the current owners. I am a time share owner so I know how this works, too. You know there's as, again, you know, there's the stability, who are you talking to. So, you know, it's different...that's why I think the discussion is there, and again, West Maui, we don't have banquet facilities anymore. Very, you know, everyone comes to South Maui, Chair. And Maui Classic, all our football...basketball players would stay at Marriott, they don't stay there anymore. And I'm looking at ourselves when we travel for NACo, we're all staying in hotels, we don't, we're not, you know, giving business to time shares, because we're there for a short time and we're not going to purchase time shares, the County. So again, you know, I appreciate this being brought forward, and I think looking at this in a, you know, wider perspective from all walks of life. But again, I can comment firsthand that I did lose my job, but then again, you know, there's a lot of people who made a lot of money with time share and then again a lot who lost. So it's, you know, we need to make sure tourism is number one still in our...but I appreciate Mr. Hokama saying we need to diversify, we need to beef up the other legs of economy. And I definitely am looking forward to having that discussion, you know, possibly in Mr. Guzman's Committee. But, Chair, I just wanted to share my two cents with the whole time share versus hotel. And again, zoning, yes, very key here, very key. So I'm looking forward to us venturing into the whole zoning issue, too. So thank you, Chair, for my time.

CHAIR COUCH: Okay, thank you, Ms. Cochran. Ms. Crivello...no, Mr. Guzman.

COUNCILMEMBER GUZMAN: Chair, I almost...I'm trying to reach and remember what I was going to say. It's been a long time. But anyway, speaking of the, I guess, Councilmember White's discussion on the numbers. I believe and I wasn't on the

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Council but I vaguely remember early on in the 2000 years there was, there might have been a study that was commissioned by the Council or the Administration to do the feasibility of the economic impacts in regards to the time shares versus hotel. And if there is that study out there, I know that...well no, I don't know for a fact but I'm pretty sure that there was a substantial amount of money paid to have that done. So if that could be a possibility of us tracking that down to get some type of figures instead of, you know, estimating or guesstimating at this point. At least we can look back in time and see what that said. I think it was favorable in terms of the time share industry. And I also agree with some of my colleagues that it has been a proven industry. I'm one of those persons that believe that we shouldn't ever put too many restrictions on developing our economic development here in Maui. And so on its face right now, I would be opposed to this bill unless you decide to bring it forth to Corp. Counsel. I've got some legal issues that I wanted to be addressed before it even goes any further than the commissions. But if this is the route that you're going to suggest or intend to do, I would rather see it get vetted out at this stage than go any further than the commissions. Thank you.

CHAIR COUCH: Okay. Members, any further comment? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Yeah, the study provides some valuable information. The portion of the study that I felt was a little bit disingenuous was in speaking of the jobs, they took a total jobs in the industry approach, and my recollection was as certain jobs were being lost in say Marriott and I can't remember exactly what the timing was, but there were other properties opening up at the same time, so the jobs kind of leveled off. So rather than looking at what they would have been had the conversion not taken place and see the significant change of where they would have been otherwise, I felt that was not quite accurately presented. And they seemed to do the same thing with the TAT revenues. With other properties opening up there was a, you know, a leveling effect, and I felt that the study should have been presented in such a way that this is how much TAT you're going to lose and this is how much is being made up by others. But that wasn't, in my recollection, properly identified. So the study has some very good information but it needs to be pretty well vetted to, you know, to see which information is solid and which information's not.

CHAIR COUCH: Now is that...I believe that's the ARDA study. I remember I was working at the Administration at the time and there was a study done and I thought it was the ARDA study.

COUNCILMEMBER WHITE: I believe it was commissioned by the Council.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Yeah, the Council did something.

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COUNCILMEMBER WHITE: And it was done by Joe Toy, Hawaii [*sic*] Advisors.

CHAIR COUCH: A different, okay, 'cause I know ARDA did a study as well around the time that we talked about. So, you know, Members, it occurs, you know, just from all the discussion here, this sounds like an issue of either economic development or policy. I would...and the only reason I mention policy because this is going to be a situation of what are we going to do for a policy and that's a nine-member Committee. I mean this is something that we should all discuss, and certainly not on the Council, at a Council meeting. After hearing all this, you know, I definitely would like to have Corp. Counsel take a look at this before, if we decide to send that to planning commissions. But what do the Members think about either writing a letter to the Policy Committee and asking that this be brought up before we act on this? Because I envision having people from ARDA over here, having people from the hotel industry and probably MVB, and having a full-on discussion. 'Cause we're doing our recollection from numbers and whatnot, and I feel uncomfortable making a policy-type decision at this point of which this certainly would qualify. So if the Members...if the Chair of the Policy Committee would chime in on that and say would you be willing to take up this as an item or do you think it should go to Economic Development to have the full-on discussion? Or we can even have it here, but I think a nine-member Committee would be the proper location for that. But, your thoughts, Mr. Hokama?

COUNCILMEMBER HOKAMA: Chairman, if I may, thank you. Just couple of comments for you and your Committee members. Regarding your consideration of maybe having Policy Committee take up the further discussion on this, I don't have a problem doing that, but I will be upfront with you and your Committee members and say that it will not be my top priority. My top priority for Policy is to conduct the investigation that Council has assigned us, since it is a concern for all Members of the Policy Committee to do it as quickly as possible for all parties concerned. And so that is my top priority besides the litigation matters that Corporation Counsel sends to the Committee for consideration. So that being said, you know, Mr. Chairman, I think this may take more than one meeting.

CHAIR COUCH: Oh, yeah.

COUNCILMEMBER HOKAMA: Definitely, you know --

CHAIR COUCH: Yes.

COUNCILMEMBER HOKAMA: --I think this is going to be part of the redirecting of where the County may go in the future, near future regarding how we view economic development and how each component of our major legs, where their place will be in the new policy directions. Maybe it's more...you know, I don't have a problem

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participating, because even if I cannot vote here I still have my vote on the Council. So whether you want to do it here or in Mr. Guzman's Committee as part of economic, you know, I'm very supportive of whichever way your Committee would like to go, Chairman. I will just want to say one comment that, you know, I would like to share with the Members is that, you know, listening to yesterday's meeting of...not yesterday, two days ago, Mr. Guzman's Committee. If part of the potential development is what we might call athletic or sports tourism, with the tournaments, with the development of regional facilities, the ability to host major tournaments, be part of potential training kind of activities, whether it be for Olympics or whatever we may envision for our, that component of that industry, my position has been we need hotel rooms. The growth of the Maui Invitational Tournament with their large boosters of major college programs need hotel rooms, not time share units. If we are going to move forward, especially, you know, I've talked to you about my ideas for South Maui with a multipurpose center that can take care secured governmental meetings, it needs hotel rooms. So I think it's important for us to have this discussion, and how each component of this industry should properly fit in where we want to go forward. But, you know, listening to, you know, and I know the Committee recommended adoption...recommendation to purchase. If we're going to move forward with major sport complexes and we want teams to come, whether it be Molokai High School and Lanai High School, the St. Louises, the Punahous, we're gonna need hotel rooms. And I hope that we don't forget that there is appropriate place for event hotel rooms. I don't have a problem with looking at a component of expansion of the hotel sector, not because I sit next to my colleague here but just by what I said earlier. I believe eventually this County may need, if we want to move forward in those venues, it will be determined not by time share units but by hotel rooms. Thank you, Chairman.

CHAIR COUCH: Thank you. Mr. Victorino.

VICE-CHAIR VICTORINO: Thank you, Chair. And I agree with my colleague, Mr. Hokama to a point, and I will say this, I've had the pleasure, quite to the contrary on what you're saying, Mr. Hokama, I have stayed in time shares because the hotel was full and Starwood or Marriott put us in a time share. That is an availability, and the cost was less than the hotel room. And there were more amenities such as kitchens, a little dining area, refrigerator for which, for our kids when we traveled was even better. So on the contrary I will say my personal experience as well as my knowledge of the business says that hotels and time shares coincide. In some areas it works very well. In Vegas it's a very lucrative business both ways. Okay. So more discussion needs to be done, I am not trying to say that this is a one-time meeting and we can get it done. I think where it's at right now, Mr. Chair, should stay where it's at. Unless you send it to Economic Development, I think right here is a good place to have the discussion, 'cause it really comes down to planning and what we we've planned the future to be like, and the zoning that we're going to be putting out there. So I see no reason to change. Yeah, I mean

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they're invited like all the other meetings we have, if you're not a non-voting Member, you're always invited to sit in. If there's an area of discussion that you're interested in you can participate. Yeah you may not be able to vote but Mr. Hokama is right, when it comes to the Council meeting then you can make your vote known at that point in time. However, I believe that there is a lot of work that needs to be done. I think the dynamics and the change in our visitor industry has come, is evolving. It's like every part of our business, it's changing. And either we adapt to the changes or we get swallowed up by somebody else. Okay. Maui is unique for its people, Maui and the State of Hawaii is unique for the hospitality. I travel all around, Mr. White, Mr. Hokama, many of us travel. One of the things when you say Hawaii is people, I love to come to Hawaii, the people treat me so good. That's what you hear time in and time out. You know beautiful beaches, there's a lot of places that have beautiful beaches. Scenery, I've been to the Caribbean, there's comparable places. So I know the uniqueness of this State is our people, and so long as our people have that graciousness, that hospitality, their willingness to take care of our visitors and treat them special, we will always be one of the top destinations. We are now, and I know our Visitor Bureau and others do great job, Mr. White and his hotel does a great job. You know not only saying how good the hotel is, but its people, the Hawaii's...Maui's most Hawaiian hotel, the State's most Hawaiian hotel, and people relate to that. And he's a good boss and he treats his employees good. So I think in totality there's lot more to be done. I'd like to see it stay here, but wherever you go, Mr. Chair, wherever Committee it ends up, I think it's important this is the time to look at the future. We're here, where do we want to go, and how do we want to go as a County. Thank you, Mr. Chair.

CHAIR COUCH: Thank you, Mr. Victorino. And I'm fine with that, too, bringing it here, but we're, our list is so long and Mr. Hokama's as well.

COUNCILMEMBER GUZMAN: Chair? Chair?

CHAIR COUCH: Yeah, hang on one second. Ms. Cochran had her hand up first. Go ahead.

COUNCILMEMBER COCHRAN: Oh did, you had something to expound on, though first?

CHAIR COUCH: Well it would be a decision as to where we're --

COUNCILMEMBER COCHRAN: Oh, okay.

CHAIR COUCH: --trying to put it but --

COUNCILMEMBER COCHRAN: Yeah. Before we...

CHAIR COUCH: --we can do that later.

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COUNCILMEMBER COCHRAN: Okay. Before we move on to your --

CHAIR COUCH: Yeah.

COUNCILMEMBER COCHRAN: --explanation, I just wanted to say that I appreciate Mr. Hokama being here and bringing up the point in regards to hotel provisions for, as he mentioned...I mentioned the Maui Classic and it no longer comes to Marriott due to the fact that it's time share. But he brought up, you know, that three-legged stool where we want to beef up different economic, you know, drivers, and his sports arena, you know, idea I think is awesome. And thereby you would need, you know, sort of nightly turnover in a hotel type of situation. You know maybe...and then these high-profile meetings and things that he mentioned, too, these are business ventures. You know when the, I think the judges came for their big convention, any kind of conventions, basically, they tend to stay at hotels, so they were at the Hyatt. And, you know, so I see West Maui used to have that and we no longer due to the fact because of the whole demographic change from hotels into time share. And I think there's a need, I definitely do, and again, not putting down one or the other but I think there's sort of an imbalance there. And I believe Mr. White knows firsthand. And yes, the real property tax numbers are much higher in West Maui due to the time share. But, you know, I think that it's...and the whole...I had a discussion with some activity people and they asked me why is it that they don't get much business from West Maui as much, and it's because when you have time share you come back year after year, it's your home away from home and you're not going to be redoing the same activities over and over in the end. And so most of the stuff comes from the people who are here at a hotel type venue, because they're...you know and you get switchover and turnovers all the time. So as for time shares, Thursday, Friday, Saturdays are your check-in and check-outs, that's when your brunt of your housekeepers are used, but on the off week, not so much. Hotels, it's every day, it's daily, you know, turnover. So that's just a little bit of differences between hotel and time share demographics also. And so I definitely agree, have Corporation Counsel run through the language, but again, I would definitely like to keep this alive and going and making sure that, you know, it comes through full discussion and vetted out by all entities that are affected here. But, you know, I again want to thank Mr. Hokama for bringing this forward and also shedding light on, you know, let's focus on other economic drivers, too. So hopefully we can have a discussion in Mr. Guzman's Committee, too, Chair. Thank you for this time.

CHAIR COUCH: Mr. Hokama.

COUNCILMEMBER HOKAMA: One last comment, Chairman.

CHAIR COUCH: Sure.

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COUNCILMEMBER HOKAMA: And I thank you and the Committee's indulgence. I would just like to share that, you know, there's no particular ownership of this legislation. If the Committee would like to rewrite the legislation to something that the Committee through this discussion would feel is more pertinent to be considered by the Committee as well as the planning commissions, so be it. The purpose was to get this discussion --

CHAIR COUCH: Discussion.

COUNCILMEMBER HOKAMA: --rolling. Because, you know, we've talked about we need to discuss it and we all nod our heads, and things, you know, other priorities take its place. Well I decided to make sure that we have a vehicle that will bring the discussion, and again, you know, from the eight of us, seven of us here, we have pretty much seven slightly different points of view. I can imagine how many more points of view there are with more public participation, but I think it's a healthy component. I think it's a time where the County in our financial status has the ability to look at options, and I think that is a good thing for this County, the ability to have options on where we want to go in our future. Because I would like to hope that we can present a future where any young person of our County would always think maybe it's good to be home, because the opportunities of employment, the ability of my quality of life, the ability to maintain my family relations, this is where I want to be. And I can stay because there's the opportunity to stay, not the other way around. And that is one of my driving points, Mr. Chairman, the ability to take care our kupuna at home, in their own County, but also provide our young people with their choice to stay home for their future as well. Thank you.

CHAIR COUCH: Okay. Any further comments, Members? You know I haven't spoken too much about this. Just to let the Members know my position on this, the Chair's all about balance. I hear what Ms. Cochran is saying about no more, there aren't very many more ballrooms and event, you know, when people come over for events like the judges and whatnot, so that would kind of spur on anybody who's going to stick in around hotels to maybe add a big event room in their, a big ballroom in their hotel. But I understand all the SMA hassles you would have to go through to do that. But and you do see more of it shifting to South Maui, but it's not a regional thing, this is a County of Maui thing. So we have to have some sort of balance. I like the idea of a new zoning category, possibly. With that, you know, not to scare the heck out of the time share folks to say you gotta go through a whole Change in Zoning issue, we'll work that out if we come up to something like that. But I do think we do need to study this, maybe not with this vehicle but it, this is better than none. And I can do it in this Committee but it would take, it would probably be sometime next year, and I don't know where Policy is. So what I would like to do with the Members' consent is to discuss it with my Staff, with the staff...with mister, the Chair of Policy and possibly the Chair of...at separate times the Chair of

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Economic Development and see...and me, and see where our schedules fit where we can do this not sooner rather than later but in some time that we, before this term ends that we have this discussion. And we have a healthy discussion with all Members involved, maybe even a public hearing outside as well, I'm not sure. But I'm not willing to pass this to the planning commissions yet. And in the meantime I'm wanting to defer this at this point until we have that discussion. And in the meantime if the Corp. Counsel could look at the legality of this before too much further. Okay, go ahead.

MR. HOPPER: Well, Mr. Chair, the only thing we would request is to avoid kind of looking at a moving target, if the Committee's going to have changes that they're going to want in the legislation such as having...if it's going to be accompanied by a separate zoning bill that's also going to include time share zoning, that's different than eliminating all time share --

CHAIR COUCH: Sure.

MR. HOPPER: --plans everywhere. If there's economic data or other data to back up a certain approach, it would be helpful to have that in our hands. And, also, to know if the Committee or the Council even has an interest in sending this forward to the commissions, because if there's no interest, then review of the proposal would sort of be moot.

CHAIR COUCH: Okay.

MR. HOPPER: We could review but we would be reviewing what is being proposed and the language being proposed, and if it would change would need another review. So I know that's sort of a chicken and egg scenario but we would request as much as possible to have the bill in as...

CHAIR COUCH: In the stages...

MR. HOPPER: Keep it with the policy issues --

CHAIR COUCH: Right.

MR. HOPPER: --that you would want to accomplish that could affect the discussion either way. Just as a comment from our --

CHAIR COUCH: Okay.

MR. HOPPER: --office to make things easier.

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CHAIR COUCH: Good point. We'll figure out what we're going to come up with after this, the discussion and then forward it to you before we forward it down. But I want to thank...I mean thank you, Mr. Hokama, for bringing this up, because again, it's another healthy discussion. I'll get together with the respective Chairs to see what, how we want to do this, but I think this discussion is warranted. And it's not...for everybody who's watching, it's not going to happen this year, I'm sure, unless we, unless there's room in Mr. Guzman's Committee if he wants to grab that. So without any objection, I'm going to request to defer this one until we get something going. I hate to leave it open for that long, but this is something that we really need to discuss.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, so this item is deferred.

ACTION: DEFER pending further discussion.

CHAIR COUCH: And via, you know, a letter or e-mail to the Members, we'll figure out where this is going to go, if it's here or wherever. So we'll communicate that and post it as well if necessary. Okay.

ITEM NO. 32: ANNUAL COMPLIANCE REPORT – CHANGE IN ZONING CONDITIONS (ORDINANCE 3559 (2008)) FOR MAUI BUSINESS PARK PHASE II (CC 13-225)

CHAIR COUCH: Alright, we're on to PC No. 32 which is the Annual Compliance Report - Change in Zoning Conditions (Ordinance 3559 (2008)) for Maui Business Park Phase II. This Committee is in receipt of County Communication 13-225 from Council Chair Gladys Baisa, transmitting correspondence dated July 9, 2013, from Grant Chun, Vice-President, Maui, A&B Properties, Inc., transmitting an annual compliance report pursuant to Condition 19 of Ordinance 3559 (2008), Change in Zoning from Agricultural, M-2 Heavy Industrial and R-1 Residential Districts to M-1 Light Industrial District (Conditional Zoning) for the Maui Business Park Phase II Project, Kahului, Maui, Hawaii. Planning Department, do you have any comments before we bring up Mr. Chun? Who I believe is here, yeah.

MS. MCLEAN: Thank you, Chair. No, we have no comments.

CHAIR COUCH: No comments. Corp. Counsel?

MR. HOPPER: No, Mr. Chair.

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CHAIR COUCH: Members, any comments to this compliance report? Do you want to bring up Mr. Chun or...I would like to hear from, actually I would like to hear from Mr. Chun so.

COUNCILMEMBER COCHRAN: Since he came all the way.

CHAIR COUCH: I know. So, Mr. Chun, if you wouldn't mind coming on up and just filling us in on what's going on with the business park, and when does Target open up. No.

MR. CHUN: Thank you, Mr. Chair. Good morning, everyone. Thank you for having me here. And just for the record, you won't hurt my feelings next time if you don't want me to stand up here. It's just perfectly fine with me. But if it would please the Chair, I'll just give a brief overview of --

CHAIR COUCH: Sure.

MR. CHUN: --kind of the highlights of what has transpired. This particular acreage over at the Maui Business Park which you're all very familiar with, I'm sure, was zoned in May 2008, and since then, of course, there's been a ton of activity at the site. Construction and a plan and approval occurred. The SMA for the north project which is over by Costco was accomplished. Of course the offsite private water system needed to be constructed and that was completed at the end of 2011. Infrastructure for the project has been substantially completed, that includes drainage, sewer, water, and roadway systems. That was completed earlier this year, substantially completed, there's still some finish work occurring currently. Probably the biggest question that I thought you folks might have as far as that, the infrastructure for the project is the plan completion of the whole Kele Street improvements which will of course alleviate a lot of the pressure on Dairy Road. The completion of the connection and the light and improvements that will occur at Hana Highway is planned for the end of this calendar year at which point that road will be open, and we hope it will be a great amenity for our commuters who have to go, you know, back and forth across that corridor. Sales and marketing began at, about a year ago now, and so as you know subsequent to that Costco Gas Station was able to open which has proven to be quite a busy, popular venue. And as Mr. Chairman mentioned, there are indications that we are, we can look forward as a community to a Target site here in our community. So basically the efforts that have occurred to date represent an investment in this community of about \$45 million, and we're just very pleased that to the extent we know that the economy is still an issue but to the extent that this investment has helped to get people off the bench and, you know, move our community forward. In that vein, you know, it's a source of pride for us to be able to be part of that solution, if you will. If there are any questions, I'll be happy to address them. But thank you very much for having me.

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CHAIR COUCH: Thank you, Mr. Chun. Mister...I mean, sorry, Member Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And good morning, Mr. Chun.

MR. CHUN: Good morning, Ms. Cochran.

COUNCILMEMBER COCHRAN: Nice to see you here. In regards to Condition 7, Item A, the approximately 40 acres for affordable housing, I recall the very beginnings of this and the, you know, the kind of issues that had risen from that particular 40 at the end of, by Pomaikai School I believe. So it shows that you have since then identified appropriate lands to address this?

MR. CHUN: Yes. We've been working with Ms. Ridao of the Department of Housing and Human Concerns. And I think as she's indicated in prior meetings, she will definitely be before this body to ascertain and achieve, you know, consensus as far as the appropriateness of the lands. But yeah, we've had very good discussions, and we've identified lands that we think will be suitable for this purpose. Right now the area that has been identified which Ms. Cochran referenced is in itself in an entitlement process. We had, have been through the State Land Use Commission to Urbanize that area, 'cause it's Ag land, yeah, prior to 2012, just as recently as, little over, little, about a year ago received Urban designation. And it still needs to go through the County zoning process.

COUNCILMEMBER COCHRAN: Okay.

MR. CHUN: But yeah, we're making good headway on that work.

COUNCILMEMBER COCHRAN: Is it on your map that's behind you?

MR. CHUN: Yes.

COUNCILMEMBER COCHRAN: Is there a spot? Can you point out kind of where it's at?

MR. CHUN: Oh, sure. The area is not adjacent to Maui Business Park, yeah, it's actually adjacent to Maui Lani. Pomaikai School which you mentioned is not near Maui Business Park but it's at the boundary of Maui Lani at the end of Kamehameha Avenue. And so the areas that we've been working with Ms. Ridao are approximately in that vicinity.

COUNCILMEMBER COCHRAN: Okay. So entirely other location.

MR. CHUN: Yeah, it's completely...

COUNCILMEMBER COCHRAN: Waiale.

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MR. CHUN: Right. So it's...

COUNCILMEMBER COCHRAN: Okay, got it.

MR. CHUN: That's why we have to go through the entitlement process, too.

COUNCILMEMBER COCHRAN: Okay, Mr. Chun, thank you very much.

MR. CHUN: Thanks.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR COUCH: Thank you.

VICE-CHAIR VICTORINO: Chair?

CHAIR COUCH: Members? Mr. Victorino.

VICE-CHAIR VICTORINO: Thank you. And thank you, Grant, for that clarification. And the community center I think has also been moved since we first discussed, so I mean there's been a lot of changes that have been made. But we haven't come down with the final location, have we?

MR. CHUN: Right. And we've been, on that front we've been working with the Parks Department --

VICE-CHAIR VICTORINO: Yeah.

MR. CHUN: --in...they are actually working on...I guess the Council was good enough to provide some planning dollars for the future community center. So we've been interfacing with them frequently, actually, on that subject, and they have been working with us to, as part of their work, kind of survey the area and get a nice idea of kind of what they're working with. But it's approximately seven acres.

VICE-CHAIR VICTORINO: Right. And that's something that, you know, eventually will be a showcase for the Central part of Maui. You know --

MR. CHUN: Yeah, we hope so.

VICE-CHAIR VICTORINO: --I'm looking forward to that.

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MR. CHUN: Yeah.

VICE-CHAIR VICTORINO: I know since I arrived on this Council more than seven years ago we've been working on that one. But that's not one...it's one of many, many issues that we've worked, takes a long time to come to fruition, but when it does I think it'll be something that everybody will be very happy with. Especially the residents of Central Maui, you know, because we're very blessed to have community centers in every district throughout this County. We're one of the few counties that actually can brag about having a community center, not a church hall, not a school, but a community center in every district throughout this County. And by adding this new much more usable and larger facility, I think it's going to be very important. Last thing I wanted to ask you is, on the drainage basin with the Maui United Soccer Club, I know you guys have been working on it. I know last year you had a report. Any more development since then?

MR. CHUN: Yes. We've...the Maui United Soccer Club which is led by Mr. Takitani as you know --

VICE-CHAIR VICTORINO: Yes.

MR. CHUN: --has established a committee which is led by I think Ms. Fong, they call her Deedee Fong.

VICE-CHAIR VICTORINO: Yeah, okay.

MR. CHUN: Who is, kind of taken the lead in doing their planning exercise as it pertains to that facility.

VICE-CHAIR VICTORINO: Okay, thank you very, very much. We appreciate it. I just, you know, 'cause I know we always talk about recreational facilities and we've just gotten the 209 acres from you folks. We're hoping that that along with some of this other areas that we've been working with for a long time will come to fruition in the not-to-distance future, then we'll have a lot of recreation areas for our children to play and even adults to use. Thank you, Mr. Chun, for all your help.

MR. CHUN: Thank you.

CHAIR COUCH: Members? Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you, Chair. And, Mr. Chun, I'm just trying to figure out, you know, if you're familiar with the discussion in Infrastructure in regards to relocation of the Kahului Treatment Facility. And is this...'cause I know there was

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certain acreage that was going...20 or some odd...or 10 I think, acres. Is that part of this development in discussing with us the County...

MR. CHUN: It's, yeah, it's not part of this development, but as a condition to the zoning for this development we are tasked with working with the Department of Environmental Management. Kind of they're driving that ship of course, but when they are ready, we are to work with them in terms of identifying a suitable site to the extent they deem a site within our, you know, lands to be appropriate for that activity. So I've had several meetings with Mr. Ginoza of the Department, and they are aware of our availability and willingness to, you know, work with them on that.

COUNCILMEMBER COCHRAN: Okay, very good. Looking forward to that discussion --

MR. CHUN: Yeah.

COUNCILMEMBER COCHRAN: --too. Thank you, Mr. Chun.

MR. CHUN: Thanks.

COUNCILMEMBER COCHRAN: Thank you, Chair.

CHAIR COUCH: Thank you, Members. Alright, Mr. Chun, I have a comment and a question. The comment is thank you very much for proceeding with this. If the Members note, this was granted in 2008, so it's only been five years and they're already well along the way, where there are other zonings that have still not broken ground and it's been a lot more than five years. So congratulations on getting that through and working on it right away, and getting our people to work. Condition 15 talks about signalized intersections shall be minimized. Have you looked at any potential signalized intersections there inside your project? It looks like you have two major intersections that...

MR. CHUN: Right. No signalized intersections within the project, but on either end at Hana Highway and at...Puunene already, Puunene Avenue already exists, yeah, by, when you go to Zippy's there's a light there.

CHAIR COUCH: Yeah, on Puunene.

MR. CHUN: Yeah.

CHAIR COUCH: Right.

MR. CHUN: Right.

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CHAIR COUCH: But the other ones inside you don't anticipate signalized?

MR. CHUN: No.

CHAIR COUCH: Okay. If you get close though, remember roundabouts. Just I have to put that in. I wanted to give Mr. White his, win his bet there that he had with Mr. Guzman apparently. The other thing is on Hana Highway I see that from the map there, there's no real connection. So the light at Hana Highway, is that going to be basically right in, right out or?

MR. CHUN: No, there'll be a light.

CHAIR COUCH: So it's going to be left turns in, but it's a three-way intersection as opposed to all the way through? It's not going all the way through?

MR. CHUN: Yes, correct. Correct, yeah.

CHAIR COUCH: Okay. Do you anticipate it ever going through? 'Cause it looks like everything is way far...

MR. CHUN: That wouldn't be up to us.

CHAIR COUCH: Okay.

MR. CHUN: That side of the highway is owned by the Airports.

CHAIR COUCH: Oh, it is. Okay. All of that is Airport. And do you know where on that diagram the airport bypass road is going to be?

MR. CHUN: It's about 1,000 feet in the Kahului direction.

CHAIR COUCH: So right in there. Okay. Alright. Members, any further questions? Thank you, Mr. Chun, very much --

MR. CHUN: Thank you.

CHAIR COUCH: --for coming. Members, it's the Chair's recommendation to file this communication, Communication No. 13-225, if there's no further discussion. Mr. Victorino.

VICE-CHAIR VICTORINO: No, I'll just make the motion to file the communication if there's no further discussion.

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APPROVED:



DONALD G. COUCH, JR., Chair
Planning Committee

pc:min:130815:ds

Transcribed by: Daniel Schoenbeck

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CERTIFICATE

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

DATED the 9th day of September, 2013, in Kula, Hawaii



Daniel Schoenbeck