

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

October 2, 2013

Council Chamber, 8th floor

CONVENE: 1:31 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Gladys C. Baisa (out 3:03 p.m., in 3:07 p.m.)
Councilmember Elle Cochran (in 1:32 p.m., out 2:37 p.m., in 2:40 p.m.)
Councilmember Stacy Crivello (out 2:43 p.m., in 2:48 p.m.)
Councilmember Don S. Guzman (out 2:16 p.m., in 2:18 p.m.)
Councilmember Mike White (out 2:06 p.m., 2:17 p.m.)

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:: Dick Mayer (PC-33, PC-36, PC-38, PC-39, PC-40)
Sharon M. Suzuki, President, Maui Electric Company, Ltd. (PC-39)
John Mauri, Power Supply Manager, Maui Electric Company, Ltd. (PC-39)
Mat McNeff, Renewable Energy Service Manager, Maui Electric Company, Ltd. (PC-39)
Grant Y. M. Chun, Vice President, Maui, A&B Properties (PC-40)
Others (3)

PRESS: Akaku: Maui Community Television, Inc.

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CHAIR COUCH: . . . *gavel* . . . Will the Planning Committee of October 2, 2013 please come to order? It is now 1:31 and we're ready to start the meeting. Before we start, can we have everybody turn off any noise-making devices or put them on vibrate or no sound at all, if at all possible. I'm the Chair of the Committee. My name is Don Couch. I want to welcome the Members, our Vice-Chair, Mike Victorino.

VICE-CHAIR VICTORINO: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. And our Council Chair, Gladys Baisa.

COUNCILMEMBER BAISA: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. And we'll just go left to right. Councilmember Stacy Crivello.

COUNCILMEMBER CRIVELLO: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. Councilmember Mike White.

COUNCILMEMBER WHITE: Aloha, Chair.

CHAIR COUCH: Aloha. Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Good afternoon, Chair.

CHAIR COUCH: Good afternoon. And making her way to her seat, Councilmember Elle Cochran, good afternoon. Alright, we have with us from the Administration, we have Michele McLean, from the, she's the Deputy Director of Planning.

MS. McLEAN: Good afternoon, Chair.

CHAIR COUCH: We have...yes --

MS. McLEAN: Good afternoon.

CHAIR COUCH: --oh, okay, good afternoon. Joe Alueta from the Planning Department.

MR. ALUETA: Good afternoon.

CHAIR COUCH: Good afternoon. And Michael Hopper, Deputy Corporation Counsel.

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MR. HOPPER: Good afternoon.

CHAIR COUCH: Good afternoon. In the, we have some resource folks today. We'll have, I believe, Grant Chun from A&B Properties for our second item, Sharon Suzuki, the President of Maui Electric Company, John Mauri, Power Supply Manager, and Mat McNeff, Renewable Energy Service Manager. They'll be talking about their, they'll be our resource people on their individual items today. We also have with us our Committee Staff, our Legislative Attorney, Gina Gormley, good afternoon.

MS. GORMLEY: Good afternoon.

CHAIR COUCH: And then our Committee Secretary, Yvette Bouthillier. Good afternoon, Yvette. Alright, Members, we're gonna, we've got one, two, three, four, five, six items today and tomorrow. And I realize we that we have some events that we should go to close to four o'clock so I'm going to try and get us out of here before that. First items is going to be PC-39 which is the Annual Status Report for Waena Generating Plant, then PC-40, the Annual Status Report for Haliimaile Subdivision, and then PC-36, -37 and -38, which is basically the Apartment District's Two-Family Duplex District and Hotel Districts, and PC-33, Home-Based Businesses. We're gonna pick that up where we left off last time. And assisting us this morning from the Hana District Office is Dawn Lono. Assisting us this morning, or this afternoon, from the Hana District Office is Dawn Lono. Good afternoon, Dawn. Alright, we'll go to Lanai.

MS. LONO: Good afternoon, this is Dawn in Hana. I have no one waiting to testify.

CHAIR COUCH: Okay, thank you. We're not quite there, the testimony, yet, but that's okay, that's good to know. From the Lanai District Office is Denise Fernandez.

MS. FERNANDEZ: Good afternoon, Chair, this is Denise from Lanai.

CHAIR COUCH: Good afternoon. And Molokai District Office is Ella Alcon.

MS. ALCON: Good afternoon, Chair. This is Ella Alcon on Molokai.

CHAIR COUCH: Good afternoon. Alright, public testimony is about ready to start. We have some people who have signed up to testify. Public testimony will be, you have to sign up in the back if you want to testify. Looks like it's only one person testifying on many items. Okay, anybody else who would like to testify, sign up in the back. It's limited to the items on the agenda and we have six, so that's good. You have three minutes, we will be using the lighting system, and then one minute to conclude. The light will turn red when it's time for you to stop speaking. Please wrap your thoughts up when the light turns red. When testifying, please state your name and the name of any organization with

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whom you are representing. And, Members, without any objection, I'm gonna start public testimony.

COUNCIL MEMBERS: No objections.

...BEGIN PUBLIC TESTIMONY...

CHAIR COUCH: Okay, first testifier is Dick Mayer. First, second, third, fourth and fifth testifier is Dick Mayer.

MR. MAYER: I didn't know you were going to continue tomorrow. I want to thank the Staff for getting the items onto the website. It was very useful for the public to be able to see the ordinances that are being discussed today and very much appreciate that. So I did mention that last time. The first item I'd like to talk about is the...should I just through them one by one?

CHAIR COUCH: Sure.

MR. MAYER: Okay. First one was regard to the Haliimaile subdivision, A&B's subdivision. They have had this now on the boards for a long, long time and they keep coming back with the same statement, we don't have water, we don't have water, we don't have water. As we all know, there are lots of people Upcountry wanting water meters and in this case, the fact that they want 600, the ability to produce water for 600 homes, I hope they do not get ahead of many of the individual residents who have been looking for homes Upcountry. And so I would urge you to take a look at their, their statements and review them accordingly. This is another case of giving an entitlement out where they seem to be ready to go and provide us some affordable housing, et cetera, and have not done it. The same thing was done with the, regard to the Kahului Town Center, and I don't think we should allow any developer, big or small, to just land bank development rights of this kind. So I just urge you look at that rather than just taking it and accepting it as a communication. The second item is with regard to Maui Electric Company's Waena Plant. Those of you who were around at that time, and I don't see anybody on the Council who was on the Council when that went through, Riki Hokama was here and we spent several months going through that particular discussion. It was a very heated discussion whether we needed a new power plant, whether it should be built on Pulehu Road, et cetera. Two things have come up. One is that Pulehu Road is no longer the type of road that it was when that project was approved. Pulehu Road now is no longer, does no longer have access to Hana Highway in the way it did at that time. And one of the discussions was that the company would fuel that power plant with oil trucks coming from the harbor, up Hana Highway, and then right turn onto Pulehu and up to that site. That still will be able to be done now but to go back to the harbor, those trucks will not be possible because the road coming down Pulehu will intersect with Hookele and

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will no longer be able to go out onto Hana Highway. So there's some indications that while it was allowed initially, may not be applicable today. I would urge that we continue the efforts to get alternative energy on line, solar, wind, et cetera and this site may no longer be needed for that kind of development. So, again, please don't just accept it as a communication from the company, but please defer it at least, get some Staff to look at the initial approval and see whether this is really a warranted site for energy development. I think that we have other sites on Maui, wind and solar, maybe geothermal, et cetera, that would probably be more suitable. With regard to the Hotel District ordinance, which you have up here, there's several things in here, but one of them in particular I want to call your attention to, which I don't think the people of Maui are aware of. You, yourselves, may or may not be aware of it, and that is in regard to the height aspect. The present County ordinance allows 12-story hotel buildings. This ordinance would increase that to 18-story hotel buildings. I don't think the public is aware of it. I think you'd probably have other people coming down here to comment. My feeling having worked on GPAC and whatever and hearing comments over the years is that people on Maui do not want to see a Waikikiization of Maui. We do not want 18-story hotel buildings, which this ordinance would allow. I would urge you to keep the 120-foot, 12-story limit that we have now. We have several hotels in that category. But I would hate to see some of the older hotels down the road being torn down and putting up 12...having being able to put up 18-story buildings along our beachfront and in our Hotel Districts. And that's a caution I would urge you to take seriously and please scale that back to the present level of 120 feet. Most of my comments with regard to the home business ordinance, it's been rewritten, I find numerous confusing statements in there, and I'm not sure even how to handle it. I gave you a list last time for the old ordinance. I was going to do the same thing again but I found so many things that were difficult to even put in here, but let me mention some of them. One is there's no reference as to ohanas. You'll see my original notes in here, which was a list of items. There's no reference to ohanas and I think that could be a problem where the main house has a business and the ohana would have a business and what are your intentions in that particular situation? Do you want to allow, as the ordinance says, two employees in each of those offices, that means now four employees perhaps, and parking? This is in addition to family members on the property and customer's parking, two customers at each of those two businesses? You have to clarify the role of ohanas in home businesses. Secondly, there should be a registration process. We cannot assume that the property tax folks will know that a business is going on there unless there's some indication by the owner that they have registered. And so, I would require, doesn't mean an approval, you're not giving approval. If they register that they have a real estate office or a dentist office or whatever it might be, they could register it, we have that in a very simple form, it's acknowledged and then at least then the property tax people will know that this is a commercial residential area and your ordinance talks about commercial residential but how would the property tax folks know about it unless it's in the ordinance. Garage sales, we talked about it several weeks ago when this came up. I think this ordinance

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should make some statement about garage sales, how often they can take place and any conditions you want to put on it. Next item was with regard to signs. Right now the ordinance says the sign should be on the house itself. As we know, many houses are behind a hedge, behind a wall, and whatever, and do no good to telling people this is where that business takes place. The sign should be located at a place where it's visible from the street, and as you say here, it should be no larger than two square feet, that's fine. An informational sign, not an advertisement, say, you know, wedding cakes or whatever it might be, that that person would get there, should be on the sign, but it should be located where people are going to see it, not hidden away on a wall that you can barely read from the street. And lastly, with regard to employee parking. There's no provision in here that says the employees have to park off street and I think you do need to state that, that there should be available, if they're gonna have two employees plus two customers there plus the owner's own vehicles on the property, they can start clogging up streets very quickly and I think there's a real need to say that all that parking has to be taken care of in the ordinance and be off street. I welcome the description of the word nuisance on here. I think it will be helpful to have a general statement of that sort in the document. There are numerous other places in here, which have been added which are, you know, somewhat confusing and I can't go through them all in the time I have available but at least those are some of the main points.

CHAIR COUCH: Okay. Thank you. Members, any questions to the testifier? Seeing none, thank you, Mr. Mayer.

MR. MAYER: Good luck with it all.

CHAIR COUCH: Thank you. Anybody else in the Chamber wanting to testify? Doesn't look like. Okay, let's talk to, let's say, the Hana Office. Anybody there ready to testify?

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

CHAIR COUCH: Okay. The Lanai Office.

MS. FERNANDEZ: There is no one waiting to testify on Lanai.

CHAIR COUCH: And the Molokai Office.

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

CHAIR COUCH: Thank you, ladies. Members, seeing that there is nobody in the Chambers or in the District Offices ready to testify, without objection, I'll close public testimony.

COUNCIL MEMBERS: No objections.

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

...END OF PUBLIC TESTIMONY...

**ITEM NO. 39: ANNUAL STATUS REPORT – WAENA GENERATING
PLANT (GC 13-1)**

CHAIR COUCH: Okay, Members, we've got a lot of stuff on the agenda but some of this should go fairly quickly. I can't promise you no math because in some of the other stuff we will be doing math ratios. Get your pens out, we're all sharpened and ready to go from this morning. We're ready to do math. So, okay, first thing is PC-39, Annual Status Report, the Waena Generating Plant. The Committee is in receipt of General Communication 13-1 from Sharon M. Suzuki, President, Maui Electric Company, Ltd., transmitting a copy of a report entitled Thirteenth Annual Status Report Developing the Power Generating Needs for the Island of Maui (July 1, 2012 - June 30, 2013), in accordance with Condition 6 of Ordinance 2879 (2000), relating to a Change in Zoning from Agricultural District to M-2 Heavy Industrial District (Conditional Zoning) for the Waena Power Generating Station located at Pulehu Nui, Wailuku, Maui, Hawaii (TMK: (2) 3-8-003:023 (Lot A-1) and TMK: (2) 3-8-003:024 (Lot A-2)). Before we start, I'd like to get, see if there's any comments from the Planning Department or Corporation Counsel.

MS. McLEAN: Thank you, Chair, we have no comments.

CHAIR COUCH: Corporation Counsel? Okay. Let's see, I think we'll go with comments from Ms. Suzuki first and then, and the group, and then we'll open the floor for discussion. Thank you for joining us, Ms. Suzuki.

MS. SUZUKI: Good afternoon --

CHAIR COUCH: Good afternoon.

MS. SUZUKI: --Chair Couch and Councilmembers Crivello, Cochran, Baisa, White, Guzman and Victorino. Thank you very much for the opportunity. I don't have a formal presentation but to date Maui Electric has been able to defer the need for the addition of firm generation on Maui. We've incorporated a lot of renewable energy as well as customers have been investing in the installation of photovoltaics on their rooftops. So as stated in a Integrated Resource Plan action plan that Maui Electric filed with the Public Utilities Commission at the end of June, to the extent that we need firm capacity generation in the future, we will look at other alternatives like battery energy storage,

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demand response, which is a way that we work with customers to manage their loads to allow us to count that towards our firm capacity needs, as well as looking at assigning a capacity value to wind. So although wind is variable, if we have enough history we probably will be comfortable with assigning a capacity value, so giving it some credit towards our firm capacity needs before we pursue the addition of firm capacity generation on the island, and that would be done currently through a competitive bidding process if the need is beyond about a three megawatt capacity. So that's gonna be our approach moving forward into the future. The property, to the extent that it may be needed for that firm capacity generation or for any renewable generation, can be made available. So, and I have, as Chair Couch mentioned, Mat McNeff, our Manager of Renewable Energy Services and John Mauri, our Manager of Power Supply are also here to help address any questions that you may have.

CHAIR COUCH: Yeah, thank you, Ms. Suzuki. I did, you know, we talked about it a little bit beforehand and, you know, even though the item says Waena Generating Plant, the description and the report talks about all the other power generating needs for the island of Maui. I'm pretty sure, without any objection from our Staff, this is covered in the Sunshine Law. So if you have any more information about the other items...

MS. SUZUKI: Do you want us to walk through the different --

CHAIR COUCH: Just a little bit, if you wouldn't mind.

MS. SUZUKI: --items? Okay. So for the Maalaea Generating...maybe, I'll have John cover the Maalaea Generating Station. He oversees that and Kahului, we had no new, oh, have some plans, I guess, we can share. We don't have any power generation developments there. And, Mat, if you don't mind covering the renewable energy things and I can come back for --

CHAIR COUCH: Sure.

MS. SUZUKI: --questions.

MR. MAURI: Okay, I'm John Mauri, Manager of Power Supply at Maui Electric. Do you want me to go through just the specific bullets or...

CHAIR COUCH: Yeah, if you wouldn't mind, just to see, give us a little bit of a status as to where you are.

MR. MAURI: Yeah, so for the first bullet is the, this is a biodiesel, algae biodiesel project. So essentially that first bullet is closed because of, we weren't really able to reach a favorable terms, I guess, with Cellana. So that's, I mean, essentially, so number one is

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closed. So the short-term testing at Maalaea, that project is completed. We do have results for that. And right now they said I think pending the availability of biodiesel at reasonable prices or parity-type prices, we have enough information at least specifically with that Mitsubishi units that if we need to move forward, we have enough data available that we could proceed right away. So, I guess, going to the next page. Again, this report is really for the year past, yeah.

CHAIR COUCH: Uh-huh.

MR. MAURI: So, but, again, part of our plan, which is going to be filed, I guess, or has been filed with the PUC, the curtailment reduction and such, Kahului Generating Station has been identified for closure in 2019. I think that's part of the plan. You know, and then 2014, part of that plan as well is what we call a deactivation of K-I, K-II, kind of in line with the...

CHAIR COUCH: Oh, can you speak into the microphone a little bit more? You can pull it up. There you go, thank you.

MR. MAURI: Okay, is that better?

CHAIR COUCH: Yes.

MR. MAURI: So, kind of in line with 2019 retirement or closure of Kahului, we have a deactivation of K-I and K-II next year, which means we do not intend to use it but if we run into emergency situations or capacity shortfall situations, we may reactivate it just to avoid load shed, those types of situations. So it's kind of an update for Kahului Generating Station. You want me to do the feasibility?

VICE-CHAIR VICTORINO: Chair.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: Can we ask specific questions on this or do you want us wait to the end?

MR. MAURI: Or is any questions or...

CHAIR COUCH: Members, it's up to you. If you feel it'd be better to just go one at a time or go through the whole thing? One at a time while he's here, okay.

VICE-CHAIR VICTORINO: Yeah.

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CHAIR COUCH: Let's go with him. If this is all your section, then we can ask, answer questions of him.

MR. MAURI: Okay, yes. So I guess I'll punt to Mat after this.

CHAIR COUCH: Okay. Members, questions for Mr. Mauri.

VICE-CHAIR VICTORINO: Chair.

CHAIR COUCH: Yes, Mr. Victorino.

VICE-CHAIR VICTORINO: Specifically, just so that the public and I understand what you're saying, I understand 2019 you're shutting down Kahului and then the next few years you're going to deactivate it but keep it as backup until what? Why are you keeping it as a backup until what else is going to be put in place?

MR. MAURI: Well, I guess as far as the deactivation of K-I, K-II --

VICE-CHAIR VICTORINO: Yeah.

MR. MAURI: --we find ourselves in a position right now where we feel we can sustain the loads that we expect in 2014. And again it's a deactivation status because say, for instance, we incur damage to one of our larger units next year, we may find ourselves in a position that we don't have the capacity. So we would, you know, look to reactivate K-I, K-II.

VICE-CHAIR VICTORINO: So you're saying by 2019, what will be in place to make sure that you don't need this at all?

MR. MAURI: So come, the way the plan is written right now, Kahului is actually, it's needed for capacity but it also does what we call voltage support on our 23KV system. So part of the plan as it's written right now is we need to build infrastructure, which is a transmission line so we can support the 23KV system. Right now that plan is expected to complete around 2019, which would make it available for us to shut down Kahului. Part of the shutdown of Kahului, and this is sort of moving forward a little bit, is we are going to have to revisit our adequacy of supply as well.

VICE-CHAIR VICTORINO: Uh-huh.

MR. MAURI: And I think as Sharon mentioned, part of that is to look at what, I guess, what portfolio of resources we would be looking at to fill that, I guess, void if you want to call that, in generating capacity.

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VICE-CHAIR VICTORINO: This has nothing to do with the building and putting on line the Waena Plant?

MR. MAURI: In general terms, the Waena site is --

VICE-CHAIR VICTORINO: Yeah.

MR. MAURI: --part of that portfolio. So one extreme is if we do not have enough of other resources, we would have to build something at Waena, and, you know, the other extreme is there are no other resources and we would build all that capacity at Waena. So it will be some blend in between those two.

VICE-CHAIR VICTORINO: So my last question, the plan that you've been walking around or going around the community presenting, is that what you're referring to as far as the additional lines and support system?

MR. MAURI: I think that plan is actually been identified in the curtailment reduction and the curtailment reduction plan that we filed with the Commission.

VICE-CHAIR VICTORINO: Okay.

MR. MAURI: I think it sort of identified a little bit in IRP as some of the scenarios 'cause there's several scenarios in IRP.

VICE-CHAIR VICTORINO: Okay. I just want to make sure that the...

MR. MAURI: Is that Maalaea Kamalii?

VICE-CHAIR VICTORINO: Yeah, I was talking about the complete system island wide. You know, the one that you guys presented at Pomaikai.

MR. MAURI: Okay, that's a different.

MS. SUZUKI: Let me clarify. So the --

VICE-CHAIR VICTORINO: Yes, so that we're not confused.

MS. SUZUKI: --yes, so the line that John just talked about is for the Central Maui area. Right now we have a 23KV line and in order to provide the voltage support to Central Maui after we retire, or before, you know, have it in place, before we retire Kahului in the targeted 2019 timeframe, we would need to upgrade the existing line to a 69KV line to ensure that we have adequate voltage support in the Central Maui area. That project is

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separate from the proposed at one time Maalaea Power Plant to Kamalii substation transmission line, which recently we provided updates in South Maui in Kihei as well as at Pomaikai. So, and with that transmission line need, we're looking also at alternatives like batteries, distributed generation, and demand response, since we've been able to mitigate the expected low voltage issue in the South Maui area. So we have more time to explore other alternatives that the community had asked us to look at.

VICE-CHAIR VICTORINO: Thank you very much for that clarification.

MS. SUZUKI: So did that clarify?

VICE-CHAIR VICTORINO: Yeah.

MS. SUZUKI: Two separate projects.

VICE-CHAIR VICTORINO: Two separate, yeah, and I think that's what I wanted to make sure --

MS. SUZUKI: Okay, no, thank you.

VICE-CHAIR VICTORINO: --that we were really talking different, different subject matters, yeah. Thank you. Thank you, Chair, for allowing them to answer those questions.

CHAIR COUCH: Thank you. Members, any other questions on that presentation? We still have one more section to go on that. Okay, thank you, Mr. Mauri.

MR. MAURI: Okay, thank you.

MR. McNEFF: Good afternoon. My name is Mat McNeff. I'm the Manager of Renewable Energy Services at Maui Electric. So I'll briefly go over the feasibility of alternative energy sources of the report. So number one, Kaheawa Wind Power or KWP-I and II. Those are the two existing wind facilities on the way to Lahaina and they've been, they're both in operation now. Makila Hydro is a small hydro also just Lahaina side of the Pali. Auwahi, the existing wind farm on Ulupalakua Ranch, also in operation. Number five is that we have had some investigation into the feasibility of pump storage hydro projects. To date none of those have really proved to be cost effective for our customers; however we remain interested in the technology and open to it should conditions change. Under the topic of Grid Integration, there's four bullets. The first talks about the Kihei/Wailea smart grid project that's currently ongoing with Department of Energy. Basically, you know, it's a pilot, we're testing out different smart grid applications, as well as there's a battery now installed at the Wailea substation. B was a proposed battery project that we were going to install in one of our substations in Central

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Maui. That project didn't come to fruition, so it's just updating that that's been, is no longer proceeding. Part c is our other smart grid pilot. This is the JUMP Smart project. You know, lately it's been in the news quite a bit. In particular there's five electric vehicle charging stations located around the island now. And that is looking at how electric vehicles can be used to help integrate additional renewables as well as, you know, renewable energy be used to increase power quality on our different circuits that we have. And part d refers to Demand Response, both Sharon and John referred to demand response as part of our portfolio approach for meeting future generation needs. Basically it's using customer loads in a way to help out what the system needs. For example, should we find ourselves in a time where we don't have enough generation, we may temporarily turn off customers' hot water heaters or something like that to temporarily decrease the load on the system. Typically that's through a program that the customers volunteer and are compensated for their participation. Number 7 is our photovoltaic efforts. We have a program Sun Power for Schools where we install photovoltaic systems on schools around Maui County. And we have several other programs such as the Net Energy Metering and Feed-in Tariff program that customers can use to install photovoltaic on their homes either to offset their own load or to have Maui Electric purchase energy from those systems. Ocean energy refers, is an update on one of our projects that we have been pursuing for a while with Oceanlinx. Recently we've come to the conclusion that at least at the present time, that's not in the best interest of the Maui customers. Number 9, Central Maui Landfill - Gas. This is just a remark that we're aware of the County proceeding with their landfill gas project. As we understand it, that's primarily conversion into fuel, so not necessarily exported electricity to Maui Electric's grid. Number 10, Central Maui Landfill - Wind Turbines. So I believe there's some interest to install some small wind turbines at the Central Maui Landfill and we are ready to help out with that as soon as we get an application. And last is the Mahinahina Agricultural Energy facility. That refers to a proposed project in Lahaina. Part of that project would be to use the County's reclaimed wastewater as a, to water crops for a fuel stock with which gas would be produced and the resulting energy produced from that gas would be sold to Maui Electric. Currently, because of the size of that proposed project, it's above, it triggers what we call a requirement for us to do competitive bidding. We are in the process of asking the Public Utilities Commission for a waiver from that requirement so that we can proceed with the negotiations.

CHAIR COUCH: Okay, thank you. Members, any questions? I have a ton. You talked about the Kaheawa Wind Power, the Auwahi Wind Power. Those two, those three projects produce about 72 kilowatt hours or megawatt hours, sorry, of power when they're operating at full steam?

MR. McNEFF: Seventy-two megawatts, yep.

CHAIR COUCH: Okay. And what, and how much of that are you able to use?

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MR. McNEFF: How much we're able to use varies according to, you know, what the load is on the system. Recently we've, you know, gone through quite a bit of effort in an effort to increase the usage of those facilities, and I think now we're in the high 90, the 90 percent utilization of those three facilities.

CHAIR COUCH: Okay. And the Malika *[sic]* Hydro, what were some of the operational challenges with that?

MR. McNEFF: Various. Over the years the facility was vandalized and was down for a year. I think during the earthquake several years ago, it was damaged so just had its share of downtime over the years.

CHAIR COUCH: Is that your own facility or is that somebody trying to sell you power?

MR. McNEFF: It's a purchase power agreement.

CHAIR COUCH: Purchase power agreement, okay, okay. The other one that was interesting is the power, the battery power, what's, why did we stop on that?

MR. McNEFF: Okay, the battery power, in regards to part b, six b?

CHAIR COUCH: Correct.

MR. McNEFF: That particular project we had gotten a grant from DBEDT to install the battery and unfortunately the battery manufacturer couldn't produce the battery in time for requirements of the grant. So ultimately, it didn't proceed.

CHAIR COUCH: So you ended up not being able to get that grant money then, or?

MR. McNEFF: Yeah.

CHAIR COUCH: Okay. And then was that, or was the State's requirement of the timeline --

MR. McNEFF: Right.

CHAIR COUCH: --limit? Okay. Is that mean you're not looking at battery power at all because I think one of the things you talked about in the Kihei 69K thing was doing battery power at a plant and I thought you had one megawatt battery already at one of the substations?

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MR. McNEFF: Yeah, absolutely, we do have a one megawatt battery at the Wailea substation and also, you know, we have a few small batteries at our Kahului base yard facility, and as John and Sharon mentioned, it's also something that we're planning on as part of our portfolio approach possibly both for generation as well as maybe alleviating the need for transmission lines.

CHAIR COUCH: Okay. Members, any other questions, cause I still have a few more but want to not monopolize the whole time. Okay. On number nine a, we have the gas recovery facility, or we had, I believe we were working on that from Ms. Cochran's Committee we got some information on that. You guys aren't taking the gas or the generated electricity, or how is that working? You're not involved with that at all?

MR. McNEFF: Yeah, my understanding is that the gas from the existing facility as well as the recent RFP for using the waste from the landfill would be combined and that, let's see, that company Anaergia was going to create a fuel, maybe like a refuse-derived solid fuel, that would be sold to whoever could use such a product.

CHAIR COUCH: Okay, so it's going to be incorporated in the solid wastewater, alright. Okay. I think that's it. Ms. Suzuki, we really didn't get a chance to talk about the Waena Generating station too much. Is that your kuleana or who's gonna talk about that? Who would like to talk about that? Yeah, come.

MS. SUZUKI: Okay.

CHAIR COUCH: So, you know, you say you don't really know where it's gonna go because of the IRP and the need for putting a building there. Part of the, you heard some of the testimony today talking about well part of the deal was to get fuel up and down Pulehu Road to Hana Highway which you can't really do right now. I believe it's a right turn in and right turn out of, from Pulehu to Hana Highway now. Actually from Hookele because Pulehu ends at Hookele now and then Hookele ends at Hana Highway, which you can only go right in, right out. So trucks leaving the facility, your, the proposed facility, can't go back to the harbor without going way out and around by the airport I guess.

MS. SUZUKI: Okay, so of course, we would have to take a look at that but right now we don't have a facility proposed for that location. We have to demonstrate a need for firm capacity generation, and probably as it's stated here, back in 2011 we had asked the Public Utilities Commission to open a proceeding for competitive bidding for that 50 megawatt capacity. So until we can demonstrate a need for new firm capacity, we really wouldn't, I mean we don't have specific plans to build a generating station at the Waena property and it, 50 percent of that zoning was for renewable energy projects. So that's also a possibility.

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CHAIR COUCH: But you don't see any kind of, any kind of things going on there --

MS. SUZUKI: Not right now.

CHAIR COUCH: --anything to do with renewable energy or?

MS. SUZUKI: Not at the moment, okay, and not as of the filing of this report. And again, technically the report was for, you know, the past year, right.

CHAIR COUCH: Sure.

MS. SUZUKI: But I think we wanted to give you folks an update --

CHAIR COUCH: Sure.

MS. SUZUKI: --on where we were given that we have put our little longer term plans out there with the Public Utilities Commission.

CHAIR COUCH: Uh-huh.

MS. SUZUKI: So, I mean, to the extent that we are subject to competitive bidding as a framework that the Public Utilities requires right now for capacity over three megawatts, the property may be used by another entity and not Maui Electric. We'd make the property available for that generation need.

CHAIR COUCH: Okay.

MS. SUZUKI: So right now there're no firm plans, I guess, for a generating station or a project, generating project I guess.

CHAIR COUCH: Alright. That energy, and I don't know if you can answer this, great, if not, but the company that is looking at doing our municipal waste, are they, have they approached you to use that land as part of the renewable energy generation or?

MS. SUZUKI: Okay, they're saying no.

CHAIR COUCH: Okay, I was just curious to see if that...

MS. SUZUKI: Because, I mean, like Mat mentioned, our understanding is that the award was to that company --

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ACTION: FILING of communication by C.R.

**ITEM NO. 40: ANNUAL STATUS REPORT – HALIIMAILE
SUBDIVISION (GC 13-2)**

CHAIR COUCH: Okay. Members, we're back, we're now on to the PC, Item No. PC-40, Annual Status Report of the Haliimaile Subdivision, and with us today we have Grant Chun, Vice-President of Alexander & Baldwin. Good morning, Mr. Chun, good afternoon.

MR. CHUN: Good afternoon, Chairman. Good afternoon, Members. Thank you very much for having me here. I'm Grant Chun here from A& B Properties. Would you like me to just give a short...

CHAIR COUCH: Please give us a little bit of a, an introduction as to what your report is saying and what you have to say about it.

MR. CHUN: Thank you. Thanks for having me here today. Most of you are familiar with the site but for those who are not, just a little bit of background. This project is located at Haliimaile. It is makai of Haliimaile Road, immediately to the Haleakala Highway side of the old Maui Pine warehouses. It encompasses about 65 acres and is planned to accommodate up to 200 new residences. It was zoned in 2005 and it has been the subject of preliminary subdivision approval, which was granted in 2006. We've continued to work through the subdivision process and have been refining our plans to accommodate for a greater variety of product types. The topography and the lack of infrastructure in the area make cost to develop this site very high, so we have to be very deliberate and creative in how we design this particular subdivision. We are looking forward to the water needs for the subdivision and the region are being addressed in the foreseeable future, which would lead us to a place where we could seek final subdivision approval of our plans and move forward with the subdivision. With the downturn in the economy which actually has eaten up most of the years between the time this property was zoned and the present, of course this has not moved on as quickly as we would like, but we're hopeful that we're on the brink of, you know, better times and a better economy for our community. And so that would be a good thing for this, for this project. If there's any particular questions you'd like me to address, Mr. Chair or Members.

CHAIR COUCH: Well, first I'm going to see if the Department has any comments and Corporation Counsel, then we'll open the floor to the Members. Department?

MS. McLEAN: Thank you, Chair, we have no comments.

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CHAIR COUCH: Okay, Corporation Counsel.

MR. HOPPER: No comments, Chair.

CHAIR COUCH: Thank you. Members, any questions for Mr. Chun? Okay, Ms. Baisa, Chair Baisa.

COUNCILMEMBER BAISA: I'm sure...thank you, Mr. Chun. I'm sure you'll appreciate this question. If you have a crystal ball, when do you think we might see something happen, like a house being built?

MR. CHUN: Well, I think a lot depends on the water scenario, but I would hope within the, with, two years.

COUNCILMEMBER BAISA: That's a good guess. I would never have expected that.

MR. CHUN: Yeah, my crystal ball, but, yeah, that's sort of what I...

COUNCILMEMBER BAISA: Yeah, I understand and I know how difficult this is, that, you known, unexpected things happen but.

MR. CHUN: Yeah.

COUNCILMEMBER BAISA: You know many of us have been really excited about housing being built Upcountry where people really like to live.

MR. CHUN: Yeah.

COUNCILMEMBER BAISA: You know, I'm amazed at the traffic every day going up and down the mountain. It's amazing how many people live Upcountry and work down country and people that live down country and work Upcountry. It's really strange this traffic up and down. It's really heavy and so it seems that, you know, regardless of where the businesses are located, people are willing to drive to live where they want to live, and lots of people like Haliimaile cause it's such a nice town.

MR. CHUN: It is.

COUNCILMEMBER BAISA: It's a nice ambiance. Okay, well thank you very much.

MR. CHUN: Thank you.

CHAIR COUCH: Members, I also have some questions, Mr. Chun.

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MR. CHUN: Sure.

CHAIR COUCH: The water situation, you were looking at developing your own wells, is that how, that's how I read the...

MR. CHUN: Yeah, we're looking at a couple of different scenarios, of course. Our neighbor, our mauka neighbor's Maui Pine. So we've been in conversations with them as far as sharing in infrastructural needs for our makai areas as wells as for what they're looking at up above. So that would entail wells, you know. And we've been talking through that and other possible scenarios with the Department of Water Supply.

CHAIR COUCH: When you say possible scenarios with the Department of Water Supply, is that getting water from the County?

MR. CHUN: Well, we are also on the very lengthy list of --

CHAIR COUCH: The Upcountry meter list.

MR. CHUN: --yeah, yeah. So that is one option, although we continue to pursue the establishment of a separate water source as well.

CHAIR COUCH: Okay. And if it is a groundwater, obviously if you need a treatment plant, if it has the chemicals that potentially are there because right underneath the pineapple field, are you ready, are you prepared to...

MR. CHUN: That's all part of the analysis that is occurring as far as what it's gonna cost to bring water to this subdivision. So, definitely if that's what it takes, then that's what we'll have to ascertain in terms of the feasibility.

CHAIR COUCH: Okay. And with all that, you think two years for the first house?

MR. CHUN: Well, maybe longer than two years. Good point.

CHAIR COUCH: Okay. Mr. White, any questions for...

COUNCILMEMBER WHITE: No.

CHAIR COUCH: Give you that option. Okay.

MR. CHUN: Thank you very much.

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County Code, relating to Apartment District. The purpose of the proposed bill is to amend Chapter 19.12, Maui County Code, relating to Apartment District by establishing accessory and special uses, consolidating and clarifying development standards, deleting the requirement of Conditional Permits for townhouses, and providing the planning director with rule-making authority. First let's hear from the Department. Department, any questions, comments?

MS. MCLEAN: Thank you, Chair, just brief introduction to this item and the other two. It's the Department's continued effort at streamlining and reformatting the zoning districts so they all follow a consistent layout in the Code, easier for us to read, easier for the public to read. I think you're familiar with, with all of this at this point. You've seen several of these already. Let's see, there really isn't anything, I don't think, that we need to point out. I'll ask Joe if there's anything that he wants to highlight. There is one minor change that we'd like to present that was intended to be in this latest version. It's just a change in the height in one of the districts from 30 feet to 35 feet, just a minor thing when we get there.

CHAIR COUCH: Okay.

MS. McLEAN: But otherwise it's pretty routine proposed revisions.

CHAIR COUCH: Alright. Joe, anything?

MR. ALUETA: I think it was pretty much covered by the Deputy Director. We're just reformatting the existing Code from a math word problem to a regular math problem. I don't like math word problems as I indicated before, of the train leaving Boston, headed into the wind, 40 miles an hour, when does it get to Chicago? Or another train leaves Chicago headed east to Boston, where do they intersect? So I try to make it as simple as possible for everyone to understand. Mostly the general public needs to look at it, they want to know how big has my lot gotta be, how high can I build my building and what are my setbacks, and I try to cover that in all of these. Also we're trying to get in more consistency. Again, eliminating the references to stories in all of our districts, you saw that in our business bills. We're no longer referring to stories, we're just going with the maximum height 'cause realistically people are concerned with how tall is the building gonna be, not so much with how many stories can I fit in there. There's other codes and regulations that will cover that. Overall, the Department's initial proposal to the Planning Commissions did not change any of this, the maximum heights and so, but it was added, I guess, to 35 feet when we went to the Planning Commissions. And that's pretty much all I have on, it wasn't very controversial at all.

CHAIR COUCH: Okay. Members, any questions? Chair Baisa.

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COUNCILMEMBER BAISA: Just for clarification, you're changing the height from 32 to 35, the limit? Is that what I heard?

MR. ALUETA: On the proposed, on the bill that you have before you from, it was drafted by Corporation Counsel, one of the changes that was recommended was the 35 feet for A-1 Apartment.

COUNCILMEMBER BAISA: And right now it's?

MR. ALUETA: Well in our proposal we had it as 30 feet and I'm trying to quickly look at my notes and actually I'm gonna look at the existing Code to see whether or not I had put 30 feet by accident, in reality it was 30 feet, but during the discussions at the Planning Commission, they recommended 35 feet for A-1.

COUNCILMEMBER BAISA: It's kind of a confusing answer but...

CHAIR COUCH: Actually, if I can clarify, Mr. Alueta, 19.12.040 says 30 feet.

MR. ALUETA: Yes.

CHAIR COUCH: So.

COUNCILMEMBER BAISA: From 30 to 35.

CHAIR COUCH: So you're asking to move it from 30 to 35?

MR. ALUETA: Correct. During the Planning Commission hearing, for some reason it was recommended to go to 35 feet.

COUNCILMEMBER BAISA: No reason? You know, five feet is my height, so I'm kinda interested. All of it.

MR. ALUETA: I apologize. It was 18 months ago that we went through the Maui Planning Commission and I'm just looking at my chicken scratch notes and all I had was their recommended changes to that.

COUNCILMEMBER BAISA: Was there anybody that didn't like that? And if they didn't, why?

MR. ALUETA: We're gonna go do a brief scan of the minutes. I believe that's also in your binders.

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COUNCILMEMBER BAISA: The reason I'm harping on this because height is such an issue for us. You know, we're so concerned here on Maui about handling height and not let it get out of control. And so I just want to make sure that, you know, we're not just blanketly doing something and then later on we're gonna deal with it.

CHAIR COUCH: While they're looking at that, Members, I wanna remind everybody that was here for the General Plan, we put in Urban Growth Boundaries to prevent sprawl and the, one of the things that was mentioned time and time and time again at our Committee meetings as well as at the GPAC meetings and whatnot is that if you can't go out, you have to go up and if we're putting out these limits, we need to really consider what we're doing there, because where it's saying that no apartment can be higher than 35 feet, which is essentially two stories, and that's only in the A, was it A-1 or A-2?

VICE-CHAIR VICTORINO: A-1.

CHAIR COUCH: A-1 District.

COUNCILMEMBER BAISA: A-1 right now.

VICE-CHAIR VICTORINO: Yeah, A-1.

CHAIR COUCH: Right. So you're gonna have to be very careful with, if we limit this way, we can't limit this way to a point.

COUNCILMEMBER BAISA: I think it goes both ways.

CHAIR COUCH: Correct.

COUNCILMEMBER BAISA: You have to be careful 'cause we don't want to ruin what, and look like Honolulu, God help us.

CHAIR COUCH: Correct.

MR. ALUETA: If I may, Mr. Chair.

CHAIR COUCH: Yes, Mr. Alueta.

MR. ALUETA: The existing Code is 30 feet and so if you, the Council, wishes to leave it at that, that's fine. I was just making a note of the D-1, the Duplex District, is also 35, is currently 35 feet.

CHAIR COUCH: That could be why they wanted to change it.

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MS. McLEAN: If I could add on to that.

CHAIR COUCH: Yep.

MS. McLEAN: That was the discussion with the Maui Planning Commission. They raised the point that the Duplex District currently is allowed 35 feet and they felt it would just be consistent for A-1 Apartment to also be 35 feet, rather than one being 35 and one being 30. So that's in the minutes, Duplex gets 35, I would think Apartment should also get 35. So that was from the Maui Planning Commission.

MR. ALUETA: And that's on Page 2 of, Page 22 of your minutes.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: Okay, I still don't feel like I really understand the discussion and the impacts of this 5 feet, but I'm gonna have to trust in people who know more about building than I do.

CHAIR COUCH: And...Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. What is the building height limit in Lahaina? I know it's two stories but is it, is it, I recall that it's 35 feet.

MS. McLEAN: In the Historic Districts?

COUNCILMEMBER WHITE: Yeah.

MS. McLEAN: I can look, I'll look that up real quick.

COUNCILMEMBER WHITE: 'Cause, you know, you brought up consistency with other areas and I'm, so, if it's consistent with some other districts as well, than it may make some sense.

CHAIR COUCH: Make some sense, yeah. And I guess, Members, the question is what defines a story because it did say story or no more than 30 feet, I believe. If I do the calculations, they're allowing about 15 feet for a story for at least in a Hotel District and it looks like in this district too for things in between the floors, you know, wiring and whatnot and maybe allowing for a 9-foot ceiling or something like that or, so, it appears that a story is about 15 feet and, is that a Building Code thing or is that what you guys are just doing?

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MS. McLEAN: It's more of a typical standard. As Joe said, we're getting away from use of the term story, 'cause that can be problematic. In a lot of the districts you'll see one story or 15 feet, two stories or 30 feet. And so we're just getting away with story and we're generally using a 15-foot standard for a story. That doesn't jive with saying 35 feet where we've typically seen two stories. To answer Councilmember White's question, in the Historic Districts--here we go again--no building shall be more than two stories high nor more than 35 feet.

CHAIR COUCH: So it is 35 feet.

MS. McLEAN: So now you have two stories and 35 feet.

COUNCILMEMBER WHITE: That's what I recall in our, one of our permits.

CHAIR COUCH: And, Members, I think that alludes to that you may have some sort of structure at the top of the, on the roof, that'll allow for it or it may be --

MS. McLEAN: An architectural feature --

CHAIR COUCH: --architectural feature.

MS. McLEAN: --of some sort.

COUNCILMEMBER WHITE: Architectural space either above or below one.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: Sounds like 35 feet is...

CHAIR COUCH: Sounds like 35 is the number that, where everybody is. Yeah. The only question I would have is, is it within the Building Code to build a story 10 feet tall so that ultimately it could be three, three stories? And would it matter? Other than density?

MS. McLEAN: These districts also have a floor-to-area ratio restriction.

CHAIR COUCH: Oh, yes...

MS. McLEAN: So that might limit, if the Code would allow it if you can be creative with your design for a 10-foot story, maybe three stories, the floor-to-area ratio limitation might prohibit that or would restrict that. I don't know if the Building Code would. But again, we're looking more at height being what we want to restrict, not so much use, 'cause floor-to-area ratio would control over all the developability --

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CHAIR COUCH: Okay.

MS. McLEAN: --of that site.

CHAIR COUCH: And we'll get into that in just a little bit. Get your pencils ready. So, Members, it seems like 35 feet is reasonable. If there's no objections, we can just change that number, if that's alright with Staff, we'll just change that number to 35? No objections? Ms. Cochran.

COUNCILMEMBER COCHRAN: Yeah, no objections. I'm just trying to figure out the, there's some notes and exceptions section. And the additional, except vent, pipes, fans, elevators, stairways, shafts, chimneys, cell, antenna, blah, blah, blah, not exceed 10 feet above maximum building height. So that means...

MR. ALUETA: Or structure, whichever is less.

COUNCILMEMBER COCHRAN: So they can go to 45 feet then?

MR. ALUETA: Yes, if they had like for photovoltaic or if they had a whip antenna --

COUNCILMEMBER COCHRAN: So needs to --

MR. ALUETA: --things like that.

COUNCILMEMBER COCHRAN: --be in reference to a energy-type system operation?

MR. ALUETA: Correct. Or vents --

COUNCILMEMBER COCHRAN: Chimneys --

MR. ALUETA: --chimneys --

COUNCILMEMBER COCHRAN: --vents.

MR. ALUETA: --stairwell. Typically we have a, multi-stories sometimes have a roof, flat roof, but they'll have a stair, stairs to access the roof. And so normally they'll have that small stairwell structure on top of the roof and so that would be allowed to go no more than --

COUNCILMEMBER COCHRAN: Forty-five feet.

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MR. ALUETA: --45 feet or 10 feet above. So if, say they built a 30-foot building, they would be allowed 10 extra feet to put those accessory structures.

COUNCILMEMBER COCHRAN: But at the 35, the max would be 45?

CHAIR COUCH: At the most, right.

MR. ALUETA: At the most.

CHAIR COUCH: At the most. But if the building was only 30 feet tall, then it can only go to 40.

MR. ALUETA: Right.

COUNCILMEMBER COCHRAN: Right.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: Right. Okay. Just wanted to clarify what that exception meant.

MR. ALUETA: Right. And that, well, that portion, just to confuse you even more --

COUNCILMEMBER COCHRAN: Thanks.

MR. ALUETA: --sorry about that. For some reason, the Planning Commission, they made it clear for just a Duplex District with regards to whichever was less. I'll explain when we get to A-2 --

CHAIR COUCH: Okay.

MR. ALUETA: --the next district.

COUNCILMEMBER COCHRAN: Okay.

MR. ALUETA: I mean to the Duplex and the --

CHAIR COUCH: Duplex, okay.

MR. ALUETA: --Hotel Districts.

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CHAIR COUCH: Members, aside from, well we look like we're at the agreement, the 35 feet is okay. Is there any other questions on this? Let's, I guess, go by section. At the beginning it's just telling you what they're taking out. So Page 1 seems to be fairly benign. Page 2, note that on number F, that they took out Conditional Use Permit for townhouses. I'm just, it's odd as to why they had it in there, but I tend to agree and if Members, I mean that's the way the bill is set, to take out the Conditional Permits. So I just wanted to point that out to you. Then the next is the accessory uses and buildings. Another thing I would like to point out, there's a definition...I mean there's a reference to nuisance. We'll talk about that in a few more items down the line. And also I have a bit of a concern from, and maybe the Department or Corp. Counsel can take a look at D where subordinate uses and structures which are determined by the Director of Planning to be clearly incidental and customary to permitted uses listed herein. Can you kinda give us an idea of what you're talking about there, 'cause it seems like this could be a bit broad as to what the Director can approve?

MR. ALUETA: That deals only with...sorry, Mr. Chair...that only deals with accessory structures. So if it was, so right now we, like, we listed some of the common things such as fences, mailboxes, trash enclosures, garages. Well, what if they had a pool and they wanted to have a pool house --

CHAIR COUCH: Okay.

MR. ALUETA: --you know, or a storage building. I mean you want 'em clearly say that's incidental and subordinate to the principle use, whether it be, you know, for the bungalow court, you know, a barbeque pit area, is clearly incidental to, like say, a bungalow court where you have a common area outside. We just wanted to leave it a little more open so that if some other accessory structures come up that we haven't thought of, and we didn't want to create a laundry list of every single accessory structure out there.

CHAIR COUCH: So I'll throw away the usual loads of fun that lawyers like, hypotheticals, and we have this situation in one place but it's not an accessory building but say an apartment complex wanted to have a convenience store in it. Is that okay? Is that something that the Director can say okay to as a separate building on the side if there's room on the lot?

MR. ALUETA: I don't see how that would be an accessory to the apartment complex unless, I mean --

CHAIR COUCH: Well you --

MR. ALUETA: --for....

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CHAIR COUCH: --got condos down at, in Maalaea that have a convenience store right underneath.

MR. ALUETA: Yeah. Remember also, some of those apartments are actually zoned B-3 --

CHAIR COUCH: Yeah, could be.

MR. ALUETA: --so they have mixed zoning, so, and they're allowed for convenience, but I think that if the complex was large enough, you could sort of, you could try to justify it, but I think that it would be hard pressed to say that you could have a standalone convenient mart that was a accessory to, in the Apartment District. If you wanted to, you could list it but --

CHAIR COUCH: No, I was just --

MR. ALUETA: --at this...

CHAIR COUCH: --or list it as prohibited.

MR. ALUETA: Right. Say somebody, I mean, like I say again, a parking structure or a parking trellises, you know, those are accessory structures --

CHAIR COUCH: Okay.

MR. ALUETA: --to the apartment complex.

CHAIR COUCH: Okay. Members, any questions on that section? Ms. Cochran.

COUNCILMEMBER COCHRAN: Like laundry room, rec room --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --would be part, fall into this purview?

MR. ALUETA: Correct. Yeah if you had a, if they didn't have individual laundry units --

COUNCILMEMBER COCHRAN: Right.

MR. ALUETA: --and they wanted, yes...not a Laundromat.

CHAIR COUCH: Ms., Ms. McLean.

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MS. McLEAN: Right. What we found with some of the districts is, an existing complex will come in and say we want to build a laundry, little laundry facility, and we will look at the very strict permitted uses. We go we can't approve that. There's nothing in the Code that allows us to do it, so this language would allow us to do that, and as we go through all of these different streamlining efforts, a number of things that are proposed are for that reason where we're just sitting there with an applicant going oh man, I wish we could say yes 'cause we should be able to allow what you're asking but strictly speaking, we can't.

CHAIR COUCH: Okay. Members, any questions on that one? Next section, they moved 19.12.040 and .050 and then turned it into a, turned .050 into a, again a matrix. It has minimal lot area square feet, minimum lot width in feet. Then the building, how we talked about, minimum setback in feet, front and rear, side, lot coverage, maximum floor area ratio and accessory structures within the setback area. Any questions on that, Members? Okay. My question is, Mr. Alueta, did the bill that the Planning Commission got, said that the minimum lot width in feet was 35 for A-1 and it's 70 in the one we, we got. Is there an issue with that? I mean, is there a reason for that or is it, was it typo in one and not in the other? If you look on page three in the bill that the Planning Commission got, it says it's 35 instead of 70, lot width.

MR. ALUETA: The existing Code says 70 feet.

CHAIR COUCH: Okay.

MR. ALUETA: And so that's why.

CHAIR COUCH: So.

MR. ALUETA: I had somehow --

CHAIR COUCH: No worries, I just was curious why, why the difference was there.

MR. ALUETA: --yeah.

CHAIR COUCH: Okay. Then we get down to maximum floor area ratio. Can you give us a little explanation of what that is as far as, does that mean, well tell us what that means, if you wouldn't mind.

MS. McLEAN: The floor-to-area ratio relates to the size of the lot and the total footprint, square footage in, including multiple stories of the development that takes place on that lot. So if you have a 10,000 square foot lot and the floor-to-area ratio is 40 percent, that means that your total floor area can be 4,000 square feet. So you could have a two-story

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building with 2,000 square foot stories and, and you're done. Or you can have a single building with a 4,000 square foot footprint.

VICE-CHAIR VICTORINO: You either stack or...

MS. McLEAN: So that's when we were talking about, can you squeeze in an extra story if you make them low, you're still gonna be subject to that floor-to-area ratio restriction.

CHAIR COUCH: Okay, everybody got that? Straight, simple math, right.

VICE-CHAIR VICTORINO: Yeah, easy math, you know.

CHAIR COUCH: There you go.

VICE-CHAIR VICTORINO: Yeah, thank you.

MS. McLEAN: Then there is, there is also lot coverage --

CHAIR COUCH: Right.

MS. McLEAN: --which is your footprint. It's regardless of stories but the area, the ground floor footprint can't exceed 25 percent of the lot area or 35 percent in A-1 or A-2.

VICE-CHAIR VICTORINO: So 25 percent of 10,000 is 2,500?

MS. McLEAN: Twenty-five hundred. So, with the two together, you wouldn't be able to have that 4,000 square-foot single story. You'd have to go two stories at 2,000 square feet per story to get your max buildout.

UNIDENTIFIED SPEAKER: Or three stories.

CHAIR COUCH: Yeah, three stories at however many per. Any other questions, Members, on that section? Alright, and the last page gives rule-making authority to the Director of Planning, and as Mr. Hopper pointed out at...I forgot where we did this, but they started putting rule-making authority at the beginning of the Code now. So are we gonna, I mean, I'm fine with it either way, but I don't know if Mr. Hopper wants to get a little more standardized.

MR. HOPPER: Mr. Chair, it's not really at the beginning of the Codes. That was the Public Works Commission bill, which involved a lot of deletions of different sections and I'm used to seeing it in an individual ordinance. It's at the end. In that ordinance it was early on but it was still at the end of the section that created the Public Works Commission.

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CHAIR COUCH: Okay.

MR. HOPPER: So that was just a comment there. But I think this is appropriately placed.

CHAIR COUCH: Okay. Alright, any further questions, Members? And we're looking at, of course, the one we're gonna pass is at the end of the minutes of the Planning Commission on the communication dated August 19, 2013. Any further questions? If not, I'll entertain a motion to pass this on first reading and order to print.

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

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: Okay, it's been moved by Mr. Victorino and seconded by Mr. White to pass this on first reading and order to print and also to file--if it's alright, Mr. Victorino--also file County Communication 13-283.

VICE-CHAIR VICTORINO: No objections, yeah.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: Thank you.

CHAIR COUCH: Any further comments? I just want to tell the Department, thank you for your making this a lot clearer once we get the idea of how to read it. I know we're so used to reading the other...okay, Ms. McLean.

MS. McLEAN: Mike and I are talking about the use of the term nuisance --

CHAIR COUCH: Yes.

MS. McLEAN: --at the beginning. We talked about it quite a bit last time with the home business bill. In this bill, it's related just to one particular use, which is small-scale energy systems as an accessory use. So it's really, really narrow. So we're, you know, we'd like to be consistent and not use the term but because it's so narrowly used in this ordinance, we're okay with it if you --

CHAIR COUCH: Okay.

MS. McLEAN: --wanted it.

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CHAIR COUCH: We do have stuff that we're gonna pass out for the home-based business bill that talks about, there's HRS that defines nuisance, so.

VICE-CHAIR VICTORINO: So, Mr. Chair?

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: If that's the case then, and again we're working on nuisance and, you know, you have the HRS, what would be preferable, putting the HRS as the, instead of nuisance, putting under HRS, da, da, da, whatever the number is, or leaving the word nuisance, because I think, again, we trying to be more specific, I think that's what you're asking, right, Michele?

CHAIR COUCH: It is more specific.

VICE-CHAIR VICTORINO: Yeah.

MS. McLEAN: With regard to the home-based business, that was really broad.

VICE-CHAIR VICTORINO: Broad, yeah, but this HRS would be more specific or is it very broad in your mind, that Mr. Couch is referring to, Hawaii Revised Statutes?

MS. McLEAN: What my understanding of the State statute --

VICE-CHAIR VICTORINO: Yeah.

MS. McLEAN: --it's just to enable the Counties to enact nuisance legislation.

VICE-CHAIR VICTORINO: I see.

MS. McLEAN: It doesn't necessarily define --

VICE-CHAIR VICTORINO: Define it.

MS. McLEAN: --nuisance the same way that Maui County might choose to.

VICE-CHAIR VICTORINO: I see. So in this case--and, Mr. Chair, just so that we get this right--you're asking for, in this case, nuisance would be defined as, and you have ...*(inaudible)*... something very specific?

MS. McLEAN: What I'm saying in this case --

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VICE-CHAIR VICTORINO: Yeah.

MS. McLEAN: --nuisance isn't defined but the use of it in this ordinance refers just to small-scale energy systems, and which is only allowed in these districts as an accessory use. So the time that we would have to enforce nuisance, it's such a narrow opportunity for it --

VICE-CHAIR VICTORINO: Based...

MS. McLEAN: --to come up.

VICE-CHAIR VICTORINO: Based on this?

MS. McLEAN: The way that it's being used --

VICE-CHAIR VICTORINO: In this?

MS. McLEAN: --in this right now.

VICE-CHAIR VICTORINO: In this ordinance?

MS. McLEAN: So because it's so narrow then, you know, we're okay with it.

VICE-CHAIR VICTORINO: Oh, you're okay with it, okay.

MS. McLEAN: In the home business bill, it's much broader and just leaves so much more interpretation. This one, it's so narrow that, that we can, we're okay with it.

VICE-CHAIR VICTORINO: Thank you, Michele. I was interpreting it the other way, like you were thinking it was too broad. Okay, I apologize, I misunderstood what you were referring to. Thank you. Thank you, Chair.

CHAIR COUCH: Okay. Any further discussion on this bill? Mr. White.

COUNCILMEMBER WHITE: The comments about the building height at 35, are you looking for an amendment?

CHAIR COUCH: No, we, and I think Staff was okay with it, we, we changed it on the fly.

COUNCILMEMBER WHITE: Okay, so what, so we don't need a motion?

CHAIR COUCH: No.

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MS. McLEAN: Joe can add the details from the whole process. One of the main changes that we needed to make is we have zoning maps that show properties zoned as D-1 and D-2, Duplex, but the existing duplex ordinance in the Code doesn't differentiate between the two and doesn't recognize the two. So part of what you see isn't substantively different but it's noticeably different, but that's why, because we needed language to match what the adopted, long ago adopted zoning maps show. And it is quite consistent with the Apartment Districts.

MR. ALUETA: Yeah, oh, and just the fact that it uses the term A-2 Two-Family (Duplex) District when we already have on our maps A-2 Apartment. So, yes, that's what we did to...Mr. Victorino. We have, so it talks about duplex and then it talks about A-2 Two-Family (Duplex) and so we're not sure how that came about, and so if you go with a fine magnifying glass, then you look at on our zoning maps, every now and then you'll find one that says A-2 (Duplex). And so in the case of, I think down in Lahaina near ...*(inaudible)*... property, there's some of that also, and it's very confusing, and some people think they have A-2 Apartment. And so we're trying to make sure that someone doesn't come in with an A-2 (Duplex) and all of a sudden we're issuing a permit for an A-2 Apartment, which would be slightly different. And so we're just trying to clarify it also. We also have zoning maps both in Pukalani as well as Wailea that make reference to D-1 (Duplex) as well as D-2 (Duplex) and there's no real zoning standards. So we're trying to make sure we have some, we got a zoning standards when they come in. We're discovering some of these, like I said, during our Dead Sea Scroll project, we're digital mapping and so we're trying to make some corrections as we go to avoid any future lawsuits and conflicts.

CHAIR COUCH: Okay. Members, Mr. Victorino.

VICE-CHAIR VICTORINO: Yeah, and, just so that I understand what you're trying to say, what impact would this have for those units that have these A-2 and yet they really were a duplex and they should have been under D-2 or whatever it might be? What impact would they have because maybe when they bought it they thought they could do this, now they walk in and they can't do that? You know, so, just trying to get clarification, is there any impact to those people that have bought their units or own those units, thinking maybe it's this way, but now you're saying no, for clarification, it will be this way?

MR. ALUETA: This shouldn't be any change because it would've said A-2 (Duplex) and then, when, if they got their zoning confirmation or if they had asked for a zoning confirmation, we would've confirmed it one way or another. And so we're not changing any of the standards. It's also noted in the project, in the 19.32, Planned Developments, they also talk about D-2 (Duplex) and D-1 (Duplex) in that, in their development standards there also. So we're just trying to be consistent so that we're all talking about the same thing, and that's where we got that coding from.

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VICE-CHAIR VICTORINO: Okay, Mr. Alueta. Just, Chair, I just want that, you know, that we change something to correct it --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --and then somebody's impacted. And it's always happened and I'm gonna bet you a nickel and a quarter, it's gonna happen. Yes.

MR. ALUETA: Yeah, no, I agree --

VICE-CHAIR VICTORINO: It's gonna happen somewhere.

MR. ALUETA: --someone may have, like I say, got the impression that they had A-2 Apartment. In reality, when you check the zoning file, it'll say A-2 (Duplex). And at the same time, to make sure that doesn't, we're, we have that caveat at the very end where we're actually gonna convert --

VICE-CHAIR VICTORINO: Yeah.

MR. ALUETA: --everybody that had A-2 (Duplex) to the new D-1 or D-2, whichever one they fall into.

VICE-CHAIR VICTORINO: So they will be informed of this change, is that what you're saying?

MR. ALUETA: No, it's just a coding, like instead of being A-2, it'll be D-1 or D-2.

VICE-CHAIR VICTORINO: Yeah, so on their--what is that--on their real property, how would they know then? Would they get some kind of notice? It's just that when I walk in and it says eh, I had this as A-2 (Duplex) and now I wanna do something 'cause I think it's an apartment, you're gonna say no?

MR. ALUETA: No, you've always been, but it's always been duplex.

VICE-CHAIR VICTORINO: Yeah.

MR. ALUETA: The bottom line is it was always Duplex zone. It was never Apartment zone.

VICE-CHAIR VICTORINO: Okay, I'm just playing the devil's advocate 'cause I just wanna make sure we don't, like some other things, we get bombarded afterwards and they say why did you do this, you know. I know you're clarifying, you're trying to make it

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standardized, I agree with all of that, but how does that impact people? And if you're assuring me that it should have little impact, 'cause somebody will be impacted, I just know that.

MR. ALUETA: Our main concern, I guess, is somebody comes in and says I'm D-1 (Duplex) --

VICE-CHAIR VICTORINO: Uh-huh.

MR. ALUETA: --and we don't know what would be their development standards.

VICE-CHAIR VICTORINO: Okay.

MR. ALUETA: Okay. And that's, that's the, that's our main issue right now.

VICE-CHAIR VICTORINO: So that's why these standards have been put in --

MR. ALUETA: Correct.

VICE-CHAIR VICTORINO: --35 feet or --

MR. ALUETA: Correct.

VICE-CHAIR VICTORINO: --one is 10,000, one is 75, so you know what D-2, D-1 means?

MR. ALUETA: Correct.

VICE-CHAIR VICTORINO: Okay, I'm clear with that, sir. Thank you. Thank you, Chair.

CHAIR COUCH: Ms. McLean.

MS. McLEAN: And I can also add if, hypothetically, a property was developed under the existing standards and now there's some slight change to that with this adoption and they were lawfully developed, then those would be grandfathered. If the new provisions are more restrictive, then that existing use would be grandfathered as it was built. If the new standards are more lenient, then they could do more, but in terms of any existing use, it's established under that, they would, they would be grandfathered.

VICE-CHAIR VICTORINO: Okay, thank you, Deputy.

CHAIR COUCH: Members, any other questions? I have a couple. Why are we, why are separating out duplexes? And if we are separating them out, why don't we have, lets

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them in, there are, potentially you can have quadraplexes, other kinds of things, so just out of curiosity, why is there a separate chapter for duplexes?

MS. McLEAN: It's always been there and because the zoning maps show that. So for properties that are zoned that by adopted zoning maps --

CHAIR COUCH: Yeah.

MS. McLEAN: --we need to have standards --

CHAIR COUCH: Okay.

MS. McLEAN: --for those districts.

CHAIR COUCH: Alright. It's kind of a catch-22. We gotta get rid of one or the other but not both, and it's, whatever. Anybody else have any comments? Mr. White, you look like you have a ...

COUNCILMEMBER WHITE: So are you suggesting that we need to have a triplex district ...*(inaudible)*... quadraplex district?

VICE-CHAIR VICTORINO: Quadraplex, yeah.

CHAIR COUCH: Yeah, I know, it's just, I don't know why, what's...

COUNCILMEMBER WHITE: But, you know, Chair --

CHAIR COUCH: Yes, sir.

COUNCILMEMBER WHITE: --it does bring up the old affordable housing question. You know, if, do we want to have the ability to do quadraplexes if --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --if they can fit on a lot. And I don't know what, what would a quadraplex fall under?

MS. McLEAN: Apartment.

COUNCILMEMBER WHITE: Okay.

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CHAIR COUCH: So you'd have to have A-1 or A-2 in order to do a quadraplex but you don't need it for duplex.

MR. ALUETA: Or be in the M-1 Industrial area where apartments are allowed. Basically if you look at --

CHAIR COUCH: Iao.

MR. ALUETA: --Iao Parkside or anyone else or a true townhouse where you have upstairs/downstairs and you have three units, that's a, be a triplex or, but it's basically an apartment.

COUNCILMEMBER WHITE: Yeah.

CHAIR COUCH: It seems, Mr. White, it seems like it's a kind of a redundant code but they have to have something --

COUNCILMEMBER WHITE: No, I understand.

CHAIR COUCH: --for it, yeah.

COUNCILMEMBER WHITE: I understand why we're, why we're doing this one in particular, but I guess I'm just flashing on a conversation I had with my son while he was up in Arizona regarding quadraplexes. There're a lot, they're all over there --

CHAIR COUCH: Uh-huh.

COUNCILMEMBER WHITE: --all over the place in residential areas and they're very affordable.

CHAIR COUCH: Uh-huh.

COUNCILMEMBER WHITE: So, anyway, it has nothing to do with the bill that's before us because we have the D-2, A-2 turning into D-2 so.

CHAIR COUCH: Yeah, this is opening, it just poking our nose into, under the tent there a little bit, finding out there's all kinds of more stuff if we keep going. So we gotta be very careful.

UNIDENTIFIED SPEAKER: It sounds like ...*(inaudible)*...

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CHAIR COUCH: I know it does. So, any other comments, questions? Yeah, I understand your frustrations, Mr. White.

COUNCILMEMBER WHITE: I'm not frustrated. I'm just pointing it out that there are maybe other things that we should be considering.

CHAIR COUCH: Yep.

COUNCILMEMBER WHITE: You know, the Department is asking for this for a specific reason because they've got a zone with this title on it --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --and they need to have, they need to have the regulations well spelled out, but it's just a thought that maybe we need to be looking at where duplexes might be --

CHAIR COUCH: Sure. Or quadraplexes or triplexes.

COUNCILMEMBER WHITE: --possible or, you know, for very, you know, small, small scale development.

CHAIR COUCH: Uh-huh.

COUNCILMEMBER WHITE: And I don't know where that might be but ...

MR. ALUETA: May I?.

CHAIR COUCH: Sure.

MR. ALUETA: I think we, we agree with your points and that's why the Code exists. If you look at the Duplex District relative to the Apartment District, it's slightly different relative to the heights as well as, you know, and the densities, so I think that's where the Duplex has more of a residential character in it, and it was meant to be sort of your moving from higher density apartments and commercial area to a buffer zone between the, either buffer between commercial and residential areas and/or a tapering down between the high density Apartment District into a more lower density residential area and to provide it on the fringe. So it does provide a different type of flexibility for any developer that wants to come in. Again, it's been on the books since the '60s and it's been on the map, and it's interesting, like I say, they, somewhere along the way somebody decided to change the coding from A-2 (Duplex) to D-1 and D-2 when they did the map, but no one bothered to make a change in the Code. And so realistically this

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section of the Duplex district has not been changed and, including the Apartment, has not been changed since the '67 Code Book. And so this was actually carried over when the comprehensive zoning of Title 19 occurred, they just basically just cut and pasted everything from the '67 and '71 Code book over into, into Title 19. And so we decided to, it was about time to update it.

COUNCILMEMBER WHITE: So if somebody wanted to build a quadraplex, they couldn't do it in this particular zoning. Is that right?

MR. ALUETA: No, I guess not. They would have to be in Apartment zoning or, or a CPR'd Ag District. That's, I mean, yeah, it, but being three units attached together like that, yes. It would have to be an apartment, it would be apartments.

CHAIR COUCH: Sounds like an intermediate...

COUNCILMEMBER WHITE: Yeah, it just seems that we may be avoiding some more affordable methods of having something close to residential --

CHAIR COUCH: Uh-huh.

COUNCILMEMBER WHITE: --but not quite apartment. So maybe the Department can give that some thought.

CHAIR COUCH: Yeah, it might be a new chapter to put in there, allow for up to maybe six plexes or something like that 'cause that is, that's the, if you look at the purpose and intent on this, it is kind of a buffer between Commercial and Residential. So why limit it to only two, but not quite an apartment?

COUNCILMEMBER WHITE: I mean, just to throw it out there.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: Instead of naming this D, Duplex, 2, maybe we should be looking at expanding it slightly to allow for a little more density. Instead of it having it duplex, maybe it's plex zone --

CHAIR COUCH: Plex zone.

COUNCILMEMBER WHITE: --for lack of a better word. So it can be a duplex, a triplex, or a quadraplex. If we're moving in this direction, we're not, instead of creating a new zone --

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CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --we may want to ...(*inaudible*)...

CHAIR COUCH: Change this again.

COUNCILMEMBER WHITE: Well potentially...if it hasn't been changed since '67, maybe we can look at making it a little bit more of a, a little more dense --

CHAIR COUCH: Uh-huh.

COUNCILMEMBER WHITE: --than duplex would allow.

CHAIR COUCH: I'm open to that. Mr. Victorino.

VICE-CHAIR VICTORINO: Yeah, thank you. And I can tell you, we've got it all over in Central Maui. In fact, Imi Kala is coming up, affordable apartments, exactly what they are, triplexes, three-story, that's what they are. So, I mean, we already addressed that all over this, in Central Maui, and I get right down this road here, there is apartments, affordable apartments, again, three-stories high. You know, I got six-story high. I go all over this central part of Maui, we've got apartments and triplex, duplex, whatever you want to call 'em. So I don't know, I mean, you know, now we getting to maybe if we can stick with what we, if we want to look at something else and if the Department wants to propose something else, that's not a problem. But I think we have enough leeway right now that these things are being built right now and they're affordable. So that's my point, I didn't mean to, you know, I agree with Mr. White, you know, we can add other codes if you want to but, to me, again, if we start getting too many, it may make it more difficult. So I just like what we have right now. So I'm glad for the cleaning up. I think that's important, let's clean up and, you know, some of this existed before, you know, our representative from Kahului was even born. So it's time to get caught up.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: Excuse me, I didn't mean to mention that, I'm sorry. He's been so quiet, I had to wake him up.

CHAIR COUCH: The question I have to the Department or Corp. Counsel, probably Corp. Counsel. I'm guessing that if we were to, say increase the potential density in this for future consideration, we would have to go back to the Planning Department, or Planning Commission, is that right? If we decided to say, well you can go up to six plexes on a D-1 or D-2 land? And I agree, it should be a plex district kind of thing. As long as we're

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here, you know, I'm fine with sending it back down and bringing it back if we need, if need be.

MR. HOPPER: Mr. Chair, I mean, I think you can alter the standards in the districts if that's the desire --

CHAIR COUCH: Uh-huh.

MR. HOPPER: --but if you want to send it back to the Commissions, I think you could. I don't --

CHAIR COUCH: Don't need to.

MR. HOPPER: --necessarily see that as a requirement but if you feel the need to alter the standards, it is part of the bill. There aren't changes in most of these cases, but I believe that's, the standards of zoning are up to the, to the Council. I mean, that's part of the role of the Council is to determine the zoning standards. If you believe that there may be an issue with, you know, you would want people to have greater notice of this, then you could send it back to the Commissions, but the Commissions did review all of these standards and did have the opportunity to recommend, you know, changes or alterations if they saw issues. So I wouldn't see that as being a change that would need to go back to the Commissions, but again you, if you change standards right now that would alter anything, that may be a good idea but not necessarily legally required.

CHAIR COUCH: Okay. Alright, well, one of the things, if we were to change this to a plex district, if you will, we would have to change the title 'cause Two-Family, right there, implies you can only have two-family and, of course, in 19.10.020, it does say two-family dwelling.

VICE-CHAIR VICTORINO: Yep.

CHAIR COUCH: So those are some of the things we would have to change. If we change the title of the Chapter, are we triggering any other weird requirements?

MR. ALUETA: If I may, Mr. Chair.

CHAIR COUCH: Yes, Mr. Alueta.

MR. ALUETA: Remember on the minimum lot size, this came up, this came up during the discussion is that you could have a four plex. I mean, I guess you could have two duplexes on a property if the lot is big enough. So it doesn't restrict, that you would only have ...

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COUNCILMEMBER WHITE: So, you're saying that, but Michele's shaking her head

MR. ALUETA: We're talking about four, a four pack.

MS. McLEAN: You could but if, if you wanted to do two duplexes on one lot then you'd have building setback requirements for each one. So you might not be able with lot setback requirements, you might not be able to fit all that on one lot as opposed to one structure that was --

UNIDENTIFIED SPEAKER: Four plex.

MS. McLEAN: --all together.

COUNCILMEMBER WHITE: Chair, you know, if you would consider, I think, I would like to see this deferred and let the Department kind of take a whack at this and come back to us with what they feel might work to expand on this district just a little bit.

CHAIR COUCH: You know, yeah, I brought that up for the same reason, why are we limiting it to two. So I agree, I'm willing to defer this but not quite yet, 'cause I'd like to see if we want to give them some sort of direction and also kinda go through this 'cause there are some what appear to be inconsistencies but I'm not sure. I'd just like to hear them explain. For instance, if we go on 19.10.020 where it says no building or structure shall be hereafter, shall hereafter be erected, structurally altered, replaced, or enlarged except for one of the following uses. So if somebody wanted to put a, if you had a duplex or whatever it was, and wanted to put a couple of storage sheds or garages in, that are detached, it appears that you can't do that here.

MR. ALUETA: It would allowed under the --

MS. McLEAN: Accessory uses.

MR. ALUETA: --accessory use. And basically all the districts say that same thing, you can't move to that district. The only reason I hate to have it deferred is because we've been waiting a long time and so, the, and...

COUNCILMEMBER WHITE: It's a long time since '67.

VICE-CHAIR VICTORINO: Yeah.

MR. ALUETA: Correct, but as Maui, as Maui develops, right, all of the, and during an upturn in the economy as we do have, these ambiguities come up, and we just would rather have a

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clear direction when somebody comes in with one of these properties, to be able to give them clear direction. We're just trying to tick off all of those missing holes that, or inconsistencies between the zoning map and the Code Book. I've already pointed out to some you during our presentations of our Dead Sea Scroll project. Again it's just, makes me nervous, I'm just trying to get as many of these ticked off before, before it becomes an unexploded ordnance.

UNIDENTIFIED SPEAKER: Chair.

CHAIR COUCH: Yeah, I understand that.

VICE-CHAIR VICTORINO: Chair.

CHAIR COUCH: Hang on, Mr. --

UNIDENTIFIED SPEAKER: Hopper.

CHAIR COUCH: --Hopper wanted to...

VICE-CHAIR VICTORINO: Oh, before Mr. Hopper say anything --

CHAIR COUCH: Okay, go for it.

VICE-CHAIR VICTORINO: --let me interject that what I, I would, and I'm listening to the Department, what I would like to see is, you know, I think I agree with Mr. Alueta and, you know, Mr. Hopper, you can chime in, if we were to pass this out and really work on a plex policy or ordinance, I mean, where specifically, you know, when you talking in here, you'd have to change everything 'cause it's always saying A-2 Two-Family (Duplex). I mean, every, on the section ten point, 19.10.040. Same thing with .040.

CHAIR COUCH: That's all being deleted.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: All that verbiage is being deleted.

VICE-CHAIR VICTORINO: Oh, really?

CHAIR COUCH: Yep.

VICE-CHAIR VICTORINO: Okay, fine, you no need yard then, eh?

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CHAIR COUCH: Well that's all in, in the table.

VICE-CHAIR VICTORINO: Yeah, well yeah, well, but then again, when you read the table, you have differences for D-1, D-2. Now if you go plexes, what's that difference? You know, and I think they need time to do that. So my feeling is I'd rather give them this and ask them to come back in the not too distant future with plexes, and, you know, plexes would be four, six whatever. Now maybe Mr. Hopper can address that more specifically, but I believe if you went and made these changes, to me personally, I would send it back because this is not the intent of the bill. I think it should go back to the Commissions for them to review, but that would be my take.

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: Thank you, Chair.

CHAIR COUCH: Mr. Hopper.

MR. HOPPER: Thank you, Mr. Chair. The Chair brought up a good point earlier about having to change the title of the bill and those issues. We would maybe want to look at that a bit more. It's not necessarily just a matter of changing things like the minimum lot area --

CHAIR COUCH: Right.

MR. HOPPER: --and standards which I was thinking of, it's talking about changing, you know, the only two uses which sort of do fundamentally define that, that with the district is, which is a Two-Family (Duplex) District, and that was something that perhaps we would want to look in more, you know, look at more closely before making the change. Because, I mean, looking at that, you could kind of...I understand allowing additional uses in areas, but it would almost, you know, it could perhaps become a bit, very, very broad in dealing with, let's say you have residential district and you wanted to add, you know, heavy commercial or industrial uses to it with, you know, that would fundamentally change the district. I'm not sure if we've looked at things like that that closely so that was a good point that I think the Chair had raised with having to change the title of the district. So it may not be something like, you know, increasing the maximum building height or the standards, which I was sort of thinking of earlier. It's a bit, looking at the only permitted uses and the title of the district and looking at something that may affect it broader. So perhaps the best advice would be to either look at a separate district to allow greater uses, you know, greater types of, you know, maybe three, four, five-family whatever, what-have-you districts and pass this one out, or send this back to the Commissions with a recommendation to create one district to allow for, you know, many, many, you know, families. But that was something that was a good

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point that I think was raised and at the very least we would probably want additional consideration before adding that in there right now.

CHAIR COUCH: Okay. Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. Maybe the Department can tell us how many, how many parcels --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --are zoned this way.

MS. McLEAN: That's what we were just talking about.

COUNCILMEMBER WHITE: 'Cause if it's three parcels...

MS. McLEAN: It may be a dozen or so.

COUNCILMEMBER WHITE: And what's, and what size are they?

MS. McLEAN: Not all that many. The other thing I would add, which Joe is just saying, is some of these are not developed and so we're really anxious to have standards for them.

COUNCILMEMBER WHITE: Oh, I understand, and I'm not, I don't think the Chair's suggesting that this would be something we would take a whole lot of time on, but I guess the question is, if it's 12 parcels, how large are they? The lot sizes, the minimum lot...

MR. ALUETA: Some of them are, some of 'em are several acres that are vacant and that's one of our biggest issues. And some of them are, you know, some of them actually are smaller, I mean, are pretty small, they're in Lahaina Town. And then some of them are in Wailea and some of those in Wailea are actually, may have been consolidated when they, during the planned development stage where they swapped out stuff or consolidated the densities. But, again, it's, there's probably, I would say a dozen parcels, a few in Lahaina that are, and then, like I say, the vacant ones are mostly in, the one I'm more concerned about are the lots that are in Pukalani. And some of them are actually, you know, and again, some of the...because of the duplex district you can build anything that's in the residential district. Some of those duplex properties have already been built with a single-family home on 'em so.

COUNCILMEMBER WHITE: I'll leave it in your hands, Chair.

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CHAIR COUCH: Thank you. The question is, you say there's a couple lots there of the dozen that have, that are large acres, large acreage?

MR. ALUETA: The ones that come to mind are the ones in the Pukalani Golf Course area.

CHAIR COUCH: That are how big?

MR. ALUETA: There's...

CHAIR COUCH: Ten acres? Twelve acres?

MR. ALUETA: I don't think they're that big but they're, they're more, they're about five acres or more. I just can't think of them right now.

CHAIR COUCH: So under the, as, if we were to make these changes as they are today, as they're presented to us today, on that, let's say, five-acre parcel, you could have multiple duplexes as long as they're separated by six feet on the side --

MR. ALUETA: That is correct.

CHAIR COUCH: --and is 15 feet on the front or back, or actually 10 on the back.

MR. ALUETA: Correct.

CHAIR COUCH: But they can only be duplexes. And I understand where Mr. White wants to go and I do want to go there, but it may be a separate district where we can add quadplexes where four buildings are, generally they would be townhouses, I would think, you know, four together, something like that, without having to go to Apartment zoned. And we don't, like you say, this is to help fix your zoning, the zoning maps, the desert project, but we have areas that, right outside of our window and in South Maui and West Maui that are, there's potential to be developed there, there aren't any zoning, there's just, this is rural, this is urban, where we could add those new zones. So we have some time to do a...yes, Mr. White.

COUNCILMEMBER WHITE: Yeah, I guess I was envisioning this on smaller lots --

CHAIR COUCH: Uh.

COUNCILMEMBER WHITE: --where we're able to get more, you know, than we would, you know, more density, in infill areas and small lots in Lahaina or elsewhere. But you know, if all we're talking about is four lots.

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CHAIR COUCH: Yeah, I'm with you as far as I'd like to get this --

COUNCILMEMBER WHITE: ...*(Inaudible)*... 12 lots.

CHAIR COUCH: --yeah, I'd like to get this expanded to, to be a little bit more reasonable than just duplexes, but I can see the Department's willingness to get this done. And then what I'd like to do is, I'll commit to you to work on doing some sort of plex legislation, to add a chapter to allow for this kind of stuff and sooner rather than later, if I can work with the Department. The only question I would have with the Members is, do you have any restrictions or conception of what kind of restrictions you would like on that or do you just want us to work with the Department and see what we come up with?

COUNCILMEMBER WHITE: I'd work with the Department, 'cause they work with it every day.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: And, Chair.

CHAIR COUCH: Yes, Mr.

VICE-CHAIR VICTORINO: Thank you for accepting my idea of moving this one on and then do a separate one. Thank you very much, I appreciate it.

CHAIR COUCH: We're working there.

VICE-CHAIR VICTORINO: Yeah, yeah, you know, I love collaboration.

CHAIR COUCH: Any other comments on this? Mr. Guzman --

COUNCILMEMBER GUZMAN: Oh, thank you, Chair.

CHAIR COUCH: --then Ms. Cochran.

COUNCILMEMBER GUZMAN: I just have question for the Department. The, just looking at the development standards here, D-1 and D-2, the only difference I see there between the two is just the minimum lot area. Is there any other differences that I'm missing? So why, why do we have that --

CHAIR COUCH: Yeah.

COUNCILMEMBER GUZMAN: --difference. I mean, why --

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CHAIR COUCH: Yeah, that's a good question.

COUNCILMEMBER GUZMAN: --I mean why not just say a maximum of 10,000 instead of, you know, separating D-1 and D-2, 'cause if you look at all the other conditions that you have, there's completely similar to each other. I don't see any differentiation between the two except for the lot size, unless you can point me out to something different.

MR. ALUETA: No, there's no difference, just, obviously lot size would lead to different densities based on, based on the setbacks and the development standards. There are no lot coverage, per se, it's all, the setback standards are similar to Residential District. Again, the only reason we created the D-1 and D-2 is because we have 'em on a zoning map already, somebody's already zoned a D-1 and D-2, it's harder, it's easier for us to change this Code --

COUNCILMEMBER GUZMAN: Alright.

MR. ALUETA: --than to go and rezone, find all the different parcels and have them all rezoned.

COUNCILMEMBER GUZMAN: Alright.

MR. ALUETA: Again, that is, again that is an option if you wanted to do that. Similar to what we did with, when we discovered that the County had a Rural District in addition to its RU-0.5 and RU-10. We said, let's just create a standard called rural, county rural, and give it the exact same development standards as RU-0.5 and that's how we were able to cover and give development standards to Maui Meadows and the rural lots that are, again are in Pukalani, because on a zoning map, a County zoning map, there are parcels that are zoned County Rural, not RU-0.5 and, again, we have parcels out there, they're not A-2 (Duplex), they say D-1 (Duplex) and there is no D-1 (Duplex) in the County Code. You also have in the County Code, in 1932, in your planned developments, reference to the D-1 and the D-2, and if you look at the density standards in the 1932, we extrapolated from that to what you have here on the different lot coverages because that has the density over there.

COUNCILMEMBER GUZMAN: Okay.

CHAIR COUCH: Clear?

COUNCILMEMBER GUZMAN: No, I get it. It's just that ...*(inaudible)*...

CHAIR COUCH: I understand that's, that's the only difference but this is just to conform the existing maps. Ms. Cochran.

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COUNCILMEMBER COCHRAN: Thank you, Chair. And, yeah, I'm, I know it's a huge can of worms that poor Department's been trying to address and I was there with the presentation of the Dead Sea Scrolls and it's quite, yeah, it's an undertaking. So I believe the motion today, or your, you know, to move this forward is going to be appreciated by the Department, and I know there's more work to be done, but I think at this point, it's important that we do move it out. So I'm looking forward to, for that favorable, you know, call or recommendation today, and then from there just move, you know, into more details where we can, but I think for now we gotta sorta, kinda as he said, just take it off the list and move on. So that's just my comments and hopeful recommendation on your behalf. Thank you, Chair.

CHAIR COUCH: Okay.

COUNCILMEMBER CRIVELLO: Chair.

CHAIR COUCH: Ms. Crivello.

COUNCILMEMBER CRIVELLO: I, too, would like to see this move forward, too, but I have a question. Can there be ohanas on duplex lots?

MR. ALUETA: Let me quickly check.

CHAIR COUCH: While they're looking that up, according to what I read here, no, unless there's room for a duplex ohana.

COUNCILMEMBER CRIVELLO: Yeah, well, just clarification.

CHAIR COUCH: Which, and that's what we're talking about, we were talking about the density, as long as the proper setbacks are available and...

MS. McLEAN: They would be permitted under that first listed use. It says any use permitted in R-1, R-2 and R-3 and accessory dwellings. Ohanas are permitted in those districts.

COUNCILMEMBER CRIVELLO: Thank you.

CHAIR COUCH: Provided they follow the setback rules, right?

MR. ALUETA: Right.

MS. McLEAN: Yeah. All, the other standards would apply.

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CHAIR COUCH: Okay.

MR. ALUETA: So you could, in fact, have a, on a lot, a duplex house, duplex, and then in the back have a main dwelling or another structure, another single-family residence, provided you met the setbacks.

CHAIR COUCH: But it has to be D, it has to be --

COUNCILMEMBER COCHRAN: R...

CHAIR COUCH: --no, it has to be zoned D-1 or D-2.

MR. ALUETA: That is correct.

CHAIR COUCH: That's the only way you can have that. You can have the main house and then a duplex. If you've got five acres, you can have 10 duplexes, maybe. Does that make sense, Ms. Crivello? Mr. White.

COUNCILMEMBER WHITE: Thank you, Chair. I doubt that you recall exactly which ones are D-1s and which ones are D-2s, but to Mr. Guzman's point, would there be a problem consolidating them all as D-2s with minimum lot size?

MS. McLEAN: If we were to consolidate them, which is fine, as Councilmember Guzman pointed out, the only difference between the two districts right now is the lot size. If we were going to consolidate them, we wouldn't want to go any larger than what the existing Code provides for them 'cause then we could potentially end up with non-conforming lot sizes --

COUNCILMEMBER WHITE: Right.

MS. McLEAN: --which we don't want to do.

COUNCILMEMBER WHITE: So we couldn't go, we couldn't consolidate into the 10,000? No, I guess we could --

MS. McLEAN: Right.

COUNCILMEMBER WHITE: --go. No, if you go the other way then...

MS. McLEAN: The lot area now is 7,500 square feet.

CHAIR COUCH: So that's what you'd want, is the minimum lot size of 7,500.

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MS. McLEAN: If you wanted to combine them, we would recommend that the minimum lot area be 7,500 square feet for both.

COUNCILMEMBER WHITE: So looking at the lots that are in that, in that designation, do you see problems with going, with consolidating these into a 7,500-foot lot size?

MS. McLEAN: The difference in density wouldn't be so significant that we think it would be a problem.

COUNCILMEMBER WHITE: Okay.

MR. ALUETA: ...*(Inaudible)*... D-1 or D-2?

MS. McLEAN: D-1 and D-2.

MR. ALUETA: Okay, no, as long as, I guess as long as, I mean, for us, it's like, you know, the D, there's D-1 (Duplex) and still a D-2 (Duplex) even though they're exactly alike.

COUNCILMEMBER WHITE: Right.

MR. ALUETA: Okay, again...

CHAIR COUCH: So and you're saying on the map, there's D-1 and D-2?

MR. ALUETA: Yes, yes.

CHAIR COUCH: That's the issue.

MR. ALUETA: That's the...but

CHAIR COUCH: Just to go along with what Mr. Guzman and Mr. White are saying is that, if you make it all, everything with D-1 with minimum lot size of 7,500, you can down here in section two of the bill where it says, all lands designated on any land zoning map as A-2 (Duplex) or A-2 family duplex or lands having received a Change in Zoning to A-2 (Duplex) or A-2 Two-Family (Duplex) prior to the effective date of this ordinance shall be re-zoned to the D-1. You can also say anything that's zoned D-2 is now D-1. Can you not? You're already saying that already for the A-2.

MR. ALUETA: That is correct. I'll defer to Mike, Mr. Hopper, if he has an issue with that. I just...

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MR. HOPPER: Thank you, Mr. Chair. I don't necessarily see a substantive difference here and I'm not sure why the current ordinance wouldn't just be, what we would go with because all this rearranging would, I wouldn't want to miss something in the rearranging but if, you know, the Committee thinks that that would be simpler somehow, I think we could figure something out. But as it's set forth now, I think it's ready to go. If we wanted to change things, we can figure out how to do that but conceptually I think it's okay, but we would, you know, if we only want to have one district with one set of standards, that's fine. If we want to have D-1 and then just have the D-2 apply as it is, that's fine. It's just, the section two is relatively non-standard. Normally if we have an area that has unadopted zoning standards, we would just have that map designation in a set of standards and list the standards rather than have something in a section of a bill--which, by the way, doesn't, isn't printed in the Code itself --

CHAIR COUCH: Right.

MR. HOPPER: --explain that. So we can figure out multiple ways to do it, but I don't necessarily see that alternative as any easier than what's being proposed right now, as my opinion.

CHAIR COUCH: I'm sure, certainly me, but Mr. Guzman and Mr. White seems like that they don't want to be looked at further down the line as saying why in the world did they do this when it's ...*(inaudible)*... there's nothing. I can see five Councils from now saying what the heck were those guys thinking, but hopefully we'll have this fixed by then. Members, there are some issues with this. I would like to pass it out as is because it's, it's fairly straight forward, but I will commit to you to combine this issue with the multiplex issue and will come up with something that will satisfy our concerns, I think, if that's something that you guys can live with for now.

VICE-CHAIR VICTORINO: Well, I...

CHAIR COUCH: No, we'll pass this out like it is.

VICE-CHAIR VICTORINO: I understand that part.

CHAIR COUCH: And then come up later to say alright we'll fix the D-2, change it maybe to a multiplex, where the map, you know, start going along the route of allowing up to six plexes or whatever.

VICE-CHAIR VICTORINO: It's a plex system --

CHAIR COUCH: A plex system of some sort.

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VICE-CHAIR VICTORINO: --of some sort. And then you would then remove D-2 from this ordinance and put it on that side?

CHAIR COUCH: Or combine those to one, one type of category, plex, designated as D, just because that's the way we've got it now. So we may have D-1, D-2, D-4, D-6, something like that. Is that, is that kind of what you were thinking about when you have a six plex, you can have a...

COUNCILMEMBER WHITE: I'm just interested in having the Department take a whack at it.

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: See what, see what makes sense.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: If we have to call, if we have to change it from D to P so it's plex instead of duplex.

CHAIR COUCH: Well then that's Parks.

COUNCILMEMBER WHITE: That's true.

VICE-CHAIR VICTORINO: Well, Mr. Chair.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: I think that if we do this, pass this out like you just said --

CHAIR COUCH: Uh-huh.

VICE-CHAIR VICTORINO: --and they work on something else, then we have to also consider that going to our Planning Commission.

CHAIR COUCH: Oh, yeah, definitely.

VICE-CHAIR VICTORINO: I mean, so the whole process --

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: --now --

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CHAIR COUCH: Yep.

VICE-CHAIR VICTORINO: --is --

CHAIR COUCH: Yep.

VICE-CHAIR VICTORINO: --is restarted.

CHAIR COUCH: Yep.

VICE-CHAIR VICTORINO: So I think for the sake of what they're saying, they really would like something in hand and ready to move now. I would recommend that, moving it...

CHAIR COUCH: That's what I just recommended.

VICE-CHAIR VICTORINO: Well, you didn't say that yet.

CHAIR COUCH: Oh, okay.

VICE-CHAIR VICTORINO: You didn't make your motion yet. Thank you.

CHAIR COUCH: Are there any other questions on the actual requirements in here other than that they're the same? Comments?

COUNCIL MEMBERS: Recommendation.

CHAIR COUCH: Okay. My recommendation is to pass out this ordinance on first reading and order to print and file...you know what, I'm not going to file this communication, I'm gonna leave it open so that we can work on possibly doing this. So I just want to recommend to pass this on first reading and be ordered to print.

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

COUNCILMEMBER WHITE: Second.

CHAIR COUCH: Okay, it's been moved by Mr. Victorino and seconded by Mr. White. Any comments, further comments?

VICE-CHAIR VICTORINO: I have a question for --

CHAIR COUCH: Yes, sir.

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ABSTAIN: None.

ABSENT: None.

EXC.: None.

MOTION CARRIED.

ACTION: FIRST READING of bill by C.R.

CHAIR COUCH: Now, Members, some people have to go. We have something at four o'clock. So if you guys want to take a biological break for five minutes, I think we can get through hotel pretty quickly.

VICE-CHAIR VICTORINO: Mr. Chair.

CHAIR COUCH: You...

VICE-CHAIR VICTORINO: I think most of us would rather you, 'cause we're gonna come back tomorrow...

CHAIR COUCH: Yep, we are coming back tomorrow.

VICE-CHAIR VICTORINO: So --

CHAIR COUCH: You guys wanna put this...

VICE-CHAIR VICTORINO: --so I, most of us would like --

CHAIR COUCH: Okay, I'm fine with that.

VICE-CHAIR VICTORINO: --recess and reconvene, we'll come back tomorrow.

CHAIR COUCH: I'm absolutely fine with that as long as you guys are up for that as well. Any further discussion on this item we just passed that out? In that case, we will recess till Thursday, October 3rd at 9:00 a.m., without, unless there's any, any other comment. No comments, okay, we are in recess. . . .(gavel). . .

RECESS: 3:32 p.m.

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APPROVED:



DONALD G. COUCH, JR., Chair
Planning Committee

pc:min:131002:ap

Transcribed by: Annette L. Perkett

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CERTIFICATE

I, Annette L. Perkett, 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 23rd day of October, 2013, in Haiku, Hawaii.



Annette L. Perkett