

PLANNING COMMITTEE

Council of the County of Maui

MINUTES

October 30, 2013

Mayor Hannibal Tavares Community Center

CONVENE: 6:01 p.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Gladys C. Baisa
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Don S. Guzman
Councilmember Mike White (in 6:15 p.m.)

EXCUSED: VOTING MEMBERS:

Councilmember Michael P. Victorino, Vice-Chair

STAFF: Regina Gormley, Legislative Attorney
Yvette Bouthillier, Committee Secretary

Arthur A. Suyama, Council Executive Assistant to Stacy Crivello

ADMIN.: Michele McLean, Deputy Director, Department of Planning

OTHERS: Dick Mayer
Eric Amaral
Laurie Gima
Pamela Tumpap, President, Maui Chamber of Commerce
Jane Loeffler
Rick Hanson
Barbara Luke
Lisa Cary
Cindy Hinton
Others (6)

ITEM NO. 33: HOME-BASED BUSINESSES (C.C. 12-74)

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: Will the Planning Committee meeting of October 30th please come to order. My name is Don Couch, I'm the Chair of the Planning Committee and with me tonight are Council Chair Gladys Baisa and your Member up here, and Councilmember Stacy Crivello, and Councilmember Elle Cochran, and Councilman Don Guzman, and Councilmember Mike White will be here shortly and excused is Councilmember Mike Victorino. I wonder where he is tonight. And with us from our Staff, from the Planning Department, first is Michele McLean, she's the Deputy Director of Planning. Good evening, Michele. There she is, way down there. And then our Staff, we have Regina Gormley from the Legislative Department and also good evening, and also Yvette Bouthillier and then Arthur Suyama in the back. Alright, I have only one person signed up to testify at this point. . .two, okay, we got two now, but I want to kind of allow for people to be on Maui time and come in a little bit later, so I may ramble on for a little bit. We're here, we're discussing the Home-Based Business Bill that was, has been submitted, has been through the Planning Committee, and it's been through all the Planning Committees and now we're going out to the community as the Members have asked to go out to different communities because there are different needs in each community. This bill has changed since it came out of the Planning Commission significantly to kind of address the impacts to neighborhoods as opposed to what can and can't be done, 'cause you can never list what can and can't be done, really, because you never know what's gonna happen in the next ten years. Nobody knew about these tablets ten years ago and now working on those in home may be something okay. Who knows what's going to be in ten years, so we're trying to make something that will, we can loosely define it but address the impacts on the neighborhood. That's what we want to do. We want to protect the character of the neighborhood as much as possible. If there's. . .there's a list of things you can do that people are doing now that are okay because it's listed under home occupations. And then there's a borderline area of things that we want to say, okay, this borderline area, do we want to move it into a permitted use and if it's not something that we want as an outright permitted use, we want to allow for people to still try and get a special permit, but when we go through the Special Use Permit, that means the neighborhood can come in and testify. They can testify yes, we really like this business or no, this person is making noise at night and we don't like this business, so we'll leave it up to the neighborhood and the Planning Commission to decide whether or not that is a valid business in the neighborhood. I can always cite examples as to businesses that started in neighborhoods, Apple computer, Hewlett-Packard computer, Dell computer, those three right off the top of my head all started in somebody's garage. And they got big enough at some time, they moved to a commercial location, and that's what we're trying to do here is allow people to either start up and get their business going the first couple years, would get the feel of it and say, okay, now it's time for employees, we would like to then go to a commercial location, or it's just a, you know, even not even a mom and pop, somebody who is an accountant or is a hair dresser who's going to have very few clients a day and doesn't plan on expanding their business and wants to just do something at home. And Chair Baisa is very fond of bringing up, say you're a caregiver,

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

an adult caregiver of either children or an adult and you want to do your work from home, that should be allowed, that's what we're, we're trying to come up with that kind of home business. Where it gets tricky is the borderline. What is acceptable, what isn't and one of the biggest ones that's always been so far in all of our meetings is automobile repair and we'll talk about that. In some places, it may be certainly not a good thing. For instance, maybe down in these 7,500 square foot lots but maybe in a two-acre lot it might not be a bad thing. So those are some of the things that we're wrestling with. That being said, the way I'd like to run it today to get some testifiers, we have two signed up, maybe four, I think by the time we get going here we'll have four. We'll go through the testimony and then if the Members have any questions of the Planning Department based on what they have heard recently or at any time, we're here to answer some of those questions and we'll see what you guys. . .we might be a little less formal if we don't get our, you know, break Sunshine Laws and see if you guys. . .some people said they may have some questions and we might be able to answer, hopefully. So with that, without objection, I'd like to start testimony.

COUNCIL MEMBERS: No objections.

CHAIR COUCH: Okay, first to testify is Dick Mayer. You have three minutes to testify. We don't have the lights here so staff will tell you when three minutes are up. When you hear the three minutes, you get one more minute to conclude. I've been a little lax in letting you stretch a little bit, but if I hear four minutes, I'm going to ask you to stop or, I mean five minutes, I'm going to ask you really to stop but try to wrap it up around 4 minutes if you can. And you can only testify on this item, which is Home-Based Business Ordinance. Alright, first person to testify is Dick Mayer and second person up to testify is Eric Amaral and Laurie Gima. Please state your name and who you're representing when you come up. Thank you.

...BEGIN PUBLIC TESTIMONY...

MR. MAYER: One, two, yeah. My name is Dick Mayer. I live on Kimo Drive in Kula. I've given you a list of questions or issues that I think need to resolve as you go through this ordinance. In many cases, I have not taken a position myself. I'm not saying I support this or that, but I think these are very critical areas. Some of them, I think in your second go-around on the bill when you. . .second draft, you took care of a few of these, but most of them were not yet taken care of, and so I'm urging that you and the Staff find it a way. You may even want an independent review committee at some point just to sit through, go through it, and then be able to present to the community a draft that is rather than trying to hash every single word out in a full Committee. It may be. . .we used that in the Maui Island Plan, it was very effective as a method. I think one of the key things I just want to mention is registration. I think if someone has a home business, it should be registered with the County. That doesn't mean they will get permission necessarily or

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

that will be scrutinized per se, but at least the County should be aware of the business being in operation. That way if a neighbor calls up and says the guy next door, the lady next door is, you know, teaching trumpet lessons at 8 o'clock at night, you know, that business will be recognized, and if somebody is operating a business without that registration, there should be some consequence of that action. That would make it much clearer. You can go through this. I don't have to read them all to you, but parking, obviously signs, garage sales, ohanas, multiple businesses on the same property. One thing I didn't include on this list that I probably would add to it is can somebody have a home business and a vacation rental and/or a B&B on the same property? That is not discussed anywhere and that would be, you know, something they may say that, oh, I got a vacation rental, but that's one ordinance and I now have a home business, I'm doing income tax returns also. You know, is that allowed, is it not allowed, under what conditions might something like that be permitted? Because I think as we get larger and larger numbers of legal vacation rentals and B&Bs, there may be some interaction there. Also the question of can an ohana and the home both have businesses going as well? All of those are issues and you can go through this list of 20-plus questions and issues that I gave to you.

CHAIR COUCH: Okay. Thank you. Members, any questions of the testifier? Okay, seeing none. . .oh, wait. Yeah, I do have a question. You mentioned in number one. Should business or address signs be allowed, required, or prohibited? That's something we are going to. . .we will be grappling with. . .I don't know if you were here for the presentation by the mainland planner.

MR. MAYER: Yes. I heard that.

CHAIR COUCH: Yes. Mr. Johnson. You saw that some of the things might be a small sign on the building itself in smaller neighborhoods, but if you got a two-acre neighborhood or five-acre neighborhood, maybe people have asked they be allowed to put the signs at the edge of their property as long as it's a small enough sign. So those are some of the things that we've run across already. How many signs, if any? We've had almost all except for in Maui Meadows say, ask for signs so that it identifies who can be contacted and identifies the hours of operations so people don't get confused and go to other different properties.

MR. MAYER: And ask at the wrong house and all that.

CHAIR COUCH: Pardon.

MR. MAYER: And people who are looking for a place will not have to search neighborhoods and keep asking different homes and bother people.

**PLANNING COMMITTEE MINUTES
Council of the County of Maui**

**October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts**

CHAIR COUCH: Correct. So those are some of the things we're weighing as opposed to no signs at all because it doesn't look good in the neighborhood.

MR. MAYER: I would think even in a rural area, our, let's say our half-acres, their sign on the street would probably be necessary. Many of the houses are built back from the street and they wouldn't, nobody would see a sign on a house itself.

CHAIR COUCH: Okay. So thank you for that. Members, any. . .I'd like to recognize Mr. White for coming up. He's one of your other Council members from up in this area, thank you.

COUNCILMEMBER WHITE: Thank you.

CHAIR COUCH: Good evening.

MR. MAYER: And I just want to add one thing.

CHAIR COUCH: Yes, sir.

MR. MAYER: I'm so happy that Maui and Boston, where I'm from, made that trade. Boston got Victorino and you unfortunately got me.

CHAIR COUCH: Thank you. The next to testify, next signed up to testify is Eric Amaral and Laurie Gima. Is it going to be tag team? Okay, cool.

MR. AMARAL: Eric Amaral.

MS. GIMA: I'm Laurie Gima. Good evening. We actually submitted testimony and I think it's kind of short and sweet, but it's regarding noise issues, that's was our focus tonight. So I guess we'll probably. . .oh, sure. . .we'll probably be submitting like further testimony to, you know, to your office, because I know like Mr. Mayer was talking about other issues such as signage and parking, et cetera and those are things we didn't address in our testimony, but right for the present time we were concerned about noise issues and like auto body repair businesses, anything, wood working businesses in a residential area. We live on Iolani Street and we have - are we on a half-acre lot? So it just to us it doesn't seem appropriate on a half-acre lot to have that going on next door to us. We already do have it going on so, you know, off and on. So for it to be permitted, we're like pretty adamantly against that.

MR. AMARAL: I think now it's no longer half-acre because it's house, cottage, house, cottage, so everything's just smashed in there. But on the old standards, it did state no auto body repair body type specifically. In this under the H, it mentions the repair so it potentially

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

could be permitted. But, you know, there's so much impact, it's such a industrial type of business, petroleums they use, oils, battery acids, asbestos dust, noise, generators, air compressors. We all probably have neighbors that do that occasionally either, you know, side money, we don't know, but it's a nightmare, it's a nightmare. It really is where it's. . .and people work graveyard shifts nowadays, you're coming home at 7, 8 o'clock and you gotta hear a generator start up and car alarms and stereo systems. It would go on and on and here comes somebody who needs a emergency repair at night, you know, hey, can you fix my truck, I need it for tomorrow, you know, it's gonna just. . .there's gonna be no boundaries. And neighbor-to-neighbor issues are really bad, really hardcore, bitter and very dangerous. So we say hold on to the last, the old standards. Don't permit this, please, you know.

CHAIR COUCH: Okay. Thank you for your testimony. Members, any questions of the testifier? Okay.

COUNCILMEMBER BAISA: Thanks so much for being here and thanks for the written testimony. I think it's really well done, but I think what was being thought of when that list that you are referring to was made, at least as it was explained to me, 'cause I like you don't really want all that stuff next to me, 'cause it's very annoying and smelly and noisy and whatever. They're talking about. . .weren't we talking about people who like have a classic car and, you know, they might be sanding it or, you know, painting it or whatever, and I think that's what was being talked about at the time, but I don't know if even that is allowable. Under the current law, I don't know. Maybe Michele can tell us.

MS. McLEAN: I'm sorry. Can you repeat the question, please?

COUNCILMEMBER BAISA: The question is, working on cars, like, you know, those people that have those classic, beautiful cars and they sand them and they paint them in their garage. Is that allowable under the current statute?

MS. McLEAN: If it's for personal, your personal use or hobby and so forth that would be accessory to your residential use of the property or people do those things for trade, things like that would be allowed. I'd have to look again at the definition of home occupation if it was just a single person doing that without people coming to the property. I'm not sure that that would be allowed if it was, you know, truly for commercial purposes, but for hobbies or for trade.

MS. GIMA: Yeah. That's kind of different, yeah.

MS. McLEAN: Yeah.

MS. GIMA: It was just more like a for-profit type of business. That's where our concern is.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: Yeah. And when I . . . yeah, we have to make it much more clearer. And I put that in there just as a, for a discussion point, because there are several that I know of anyway, automobile repair dealer guys that you don't know they're there.

MS. GIMA: Yeah.

CHAIR COUCH: Because they don't have a bunch of cars hanging around and they're just changing oil or tuning up the engine or some basic stuff that isn't really. . . although now with the oil disposal and whatnot, we're getting into environmental issues there. Certainly didn't intend for repair work because that's banging and, you know, body repair and painting for sure. So yeah, definitely we're going to look into that. That's going to be one of our big discussions whether or not certainly in half-acres or less I'm seeing how it may be just we don't do it. Although, the ones I was talking about are in, you know, 7,500 square foot lot. . . it's about a 10,000 square foot lot and nobody knows they are there. You have to. . . and so that's what we're trying to figure out and we're going to have a long discussion on that, I assume just going back and forth how we can do that. So we hear the concerns and we're trying to see what we can do to balance everything.

MS. GIMA: Thank you very much. We appreciate that. Thank you.

CHAIR COUCH: Okay. Any further questions of the testifier?

MR. AMARAL: Yeah. Well, I just think you should always look at is this a quiet business.

CHAIR COUCH: Right.

MR. AMARAL: You know, number one, that should be the lead, you know, your lead and you know, go with that.

CHAIR COUCH: Okay.

MS. GIMA: Thank you very much.

CHAIR COUCH Members? Thank you. Thank you very much. Last person that signed up to testify is Pamela Tumpap. Anybody else, come on up.

MS. TUMPAP: Aloha, Councilmembers and Chair Couch, for taking this up. We really appreciate you, all of you being up here tonight in Pukalani. I'm here both tonight as the Chamber President of the Maui Chamber of Commerce as well as myself, I'm a resident of Pukalani, Maui. And really appreciate you taking this issue up, because we have so

**PLANNING COMMITTEE MINUTES
Council of the County of Maui**

**October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts**

many independent contractors here in Maui and small businesses operating out of their homes these days, and it's important right now that we legitimize those that are already in business. As you folks well know, often it's coming up as a result of complaints. Some of those complaints are legitimate as you've already heard with noise issues. Sometimes it's just a matter of another dispute and the issue of the home-based business comes up. And since enforcement is complaint driven, all of those things have to be taken into account. But we really appreciate the expansion to date and that you're continuing to reach out to the communities to look at what is acceptable to the residents and things that we can improve on. We appreciate the lens of looking at the impact on the residential areas as the basis for drafting this legislation and commend the Committee for bringing in Bradley Johnson of AICP to help us do just that. We appreciate his excellent overview. And just want to reiterate his perspective that he said in his testimony, 80 percent of this bill can be readily agreed on, it's the final 20 percent that's difficult. So that we not hold up the 80 percent on what we can agree on, on the 20 percent that might take a little bit longer, and he noted the next 10 percent from 80 to 90 might take about 6 months and the final 10 percent might take two years. But we look at this as a work in progress and legitimate. . .legitimize those that as we said are not having a negative impact on the neighborhoods, are not too noisy or having some other issues. You know, he shared that one in twelve, this was a national statistic, but that one in twelve households have some sort of home-based business. And I suspect given our high cost of doing business here in Hawaii that number is higher. I know in my neighborhood it certainly is and the majority of those operate with very. . .we don't have neighborhood complaints in my neighborhood. We do have a music teacher so we have some noise, but I think most of us appreciate that noise 'cause it's beautiful, not always but they get there. And we do have further up the road some car repair issues. But on the whole, the majority of those that are operating in the neighborhood are not even known as a home-based business. There is no signage, they're operating from their home, they have very few people coming, and we at the Maui Chamber of Commerce believe that is going to be the majority of those that we find. And since home-based business is a way to incubate small businesses to create live/work environments that we said are so important in the Maui Island Plan to reduce traffic on our roads, to improve our economic climate and provide needed revenue for families, we want to urge the County to come up with models and expedite this bill as quickly as possible after we receive the community feedback to allow that 80 percent. And Upcountry, of course we have two outstanding models, Gannon's restaurant who started --

MS. GORMLEY: Three minutes.

MS. TUMPAP: --out of her home and Ergobaby. And so as we've said before, we just want to say thank you for being here. Now is the time we believe to really move this bill forward. We appreciate that the work that you're doing and it's our belief that the majority or no-to-low impact, we appreciate the tiered approach that you're looking at.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

and the others we should look at commercial and industrial space for them. Mahalo for your time.

CHAIR COUCH: Thank you very much. Members, any questions for the testifier? Seeing none, I do have maybe a comment. Yes, thank you for your comments about Mr. Johnson. We are taking that part, at least the Chair is taking that part into heart, the 80 percent. Let's get this out, work on it, and see how it works and then tweak it just as we're doing with the Short Term Rental as well. And we are working for impact, trying to be impact based and as you said, if you can drive by it and not know it's there, it's perfectly legal. It's the ones on the edge that we're seeing where we need to kick to the Planning Commission to see if the neighbors have any comments or concerns about it. So that's. . .I wanted to let everybody know that that's where we're headed for this bill. And, you know, we probably, like you said, certainly 80 percent we can get right away, it's the next 10 or 15 percent that's going to be tough.

MS. TUMPAP: Yeah. We understand and we appreciate the effort. Thank you.

CHAIR COUCH: Okay. Thank you. Members. . .anybody else want to testify? Questions? Go ahead and just give us your name. No, you gotta come up on the. . .it's alright.

MS. LOEFFLER: I'm fine to stand as long as I have the cane. I'm Jane Loeffler. I live down on Hokulani Street and I would like to iterate, reiterate and strongly support the comments that have been made about car repair things. There is a large installation in the neighborhood. The lot is something over 25,000 feet, they're 8 to 10 cars parked on the street at night. One area is partially fenced in with a fence that is falling down, and the backyard is full of boats and cars, which I think are an environmental hazard, particularly when the grass is not cut and it's the dry season. It's accessible readily to children if they want to go in there and play. He has said in the past that it's a hobby, but it's more than a hobby. We personally have sold him a truck, which we've seen repainted driving in the neighborhood so that deserves a real look at. Thank you.

CHAIR COUCH: Okay. Thank you. Members, any questions of the testifier? Alright, one of the things that we wanted to let you know as well is we are concerned with the neighbor versus neighbor complaints, people have some trepidation in complaining against your neighbor. And the complaint system we have on our website requires your name and address. So I know several of the offices will hear your complaint and submit the request for services themselves, so you may want to give your District Councilmember a call or one of us if you're concerned about retaliation and what not. And each individual office will leave it up to their own, you know, discussion with you to determine whether or not they want to file that, but our office I know does quite a bit of that if necessary, because quite frankly we've had people call up and say, hey, who was that that complained. I say, why does it matter, you're doing something illegal. So just keep in mind that you have

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

other alternatives, but it is. . .we don't have enough. . .I mean, Michele will certainly testify to this is they have three enforcement officers right now for all three islands. So they're not going to be walking, you know, driving, cruising the streets looking for illegal businesses. We rely on citizens to be our eyes and ears. It's unfortunate that we have to do it that way, but it's just the nature of the beast is that we need you guys to be our eyes and ears. So keep that in mind when we go through this too, is that there are other ways that we can get around the whole, you know, who called and why is, you know, Mr. White complaining about me kind of thing. Okay. Yes, sir, come on up. We're being a little bit less formal tonight just. . .yeah.

MR. HANSON: Hello, Don.

CHAIR COUCH: Your name?

MR. HANSON: Rick Hanson, I'm from Makawao. And I have a question for you. Does the location of the property in a residential area, if it's zoned, let's say Rural for example, if the access to properties that may wish to have a home business is only accessible by easement through other properties, is that something that would be taken into consideration if this permit were to be reviewed or allowed?

CHAIR COUCH: That's a very good question and that's something we will discuss. I don't know how Special Use Permits are handled now from the Department or how this, that kind of thing is handled. Michele, do you have any thoughts for us?

MS. McLEAN: Just a couple of general thoughts, when that lot was created, an easement document would have been required so that that lot could be accessed. We'd have. . .we not necessarily the Planning Department, maybe the Public Works Department would have to look at the terms of that easement. It could be restricted only to certain uses on the lot. I don't know that that would be the case, access easements are typically rather general, but it could be that the easement document itself is restrictive to certain uses of the property. So if that easement were restrictive, it could limit what the property could be used for, but if the easement document is, you know, just for vehicular access it doesn't narrow down what vehicles would be allowed to use it, but it would come down to the reading of that easement document.

CHAIR COUCH: Thank you, Michele. And, you know, that. . .since you brought that to our attention, we will figure out, you know, it may require that if you have an easement, if you have to have an easement to access your lot then you must have a Special Use Permit kind of thing if you're gonna have customers. It might be one of those things just to let your neighbors know that, hey, there's going to be potential of traffic here. If it's a business like, I don't know, an accountant or web designer, somebody that doesn't really have very many customers that come to the location, that's going to be a permitted use

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

regardless. It's again, it's the impact, if there's going to be a lot of cars going back and forth then you want the neighbors to know about it, especially the person who holds the easement. So that's a very tricky question. Yeah, very good. Thank you.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR COUCH: Yes, yes. Thank you. We put that down.

MS. GIMA: You had mentioned that there's three enforcement officers.

CHAIR COUCH: This Laurie Gima.

MS. GIMA: This is Laurie Gima, sorry.

CHAIR COUCH: Yeah.

MS. GIMA: So you said there's three enforcement officers that cover Molokai, you said, Lanai and Maui.

CHAIR COUCH: Yes.

MS. GIMA: So if this does pass, do you plan on increasing the number of enforcement officers in the...within the budget?

CHAIR COUCH: We have three positions open as well I believe. Is that right, Michele?

MS. McLEAN: We currently have four inspectors, not three.

CHAIR COUCH: Four, sorry.

MS. McLEAN: And we have two vacancies that we are trying desperately to fill and are having a very hard time filling them.

MS. GIMA: Well, what are the . . .are the requirements fairly like restrictive or somebody in the, you know, like a Maui resident? I mean, what is it, I wonder, that's holding people back from applying or people applying and they are not. . .

MS. McLEAN: We've had people apply and we've interviewed and none of them have been viable candidates.

MS. GIMA: Yeah. Okay. Thank you.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: So we do have openings, if you're interested. Yes, I know. So seriously we are looking so. . .Members, any other. . .the lady. . .okay. Come up and talk and write, both, just give us your name.

MS. LUKE: Good evening, my name is Barbara Luke. And I brought a couple pictures of a repair business in my ag neighborhood, two-acres, Kula 200. The repair business has, for several years, been in operation. And if you look at their home from the road, you see just a gate, a roadway to another gate, and then the whole operation is down into the gulch. And they repair the large tractors like bulldozers, their specialties have been forklifts. And I've been told recently, he's bought his own tow truck and he's now repairing cars and trucks as well. And, you know, I can understand what they're saying about a repair business in the neighborhood, because even though you can't really see it from the road, these tractor trailers go up and down, they have to drop off whatever they're dropping off and then leave and then they come back to pick it up. And when construction is good that guy's busy. And it perhaps he'll, maybe he's going to cars now because of this whole issue. I'm not sure. But since you were saying, maybe two-acre ag allow such businesses. . .I don't know, I don't think it's a good idea. I think that's an industrial type of activity.

COUNCILMEMBER BAISA: Thank you very much, Barbara, for being here tonight. It's interesting that you're bringing this up. In the Kula, I mean, the Kihei meeting that we had, quite a few people talked about having industrial baseyards in residential areas. You know, people start with a small business and they get one truck, and then they grow a little bit more and they get a truck and trailer, and now they get another truck, and sooner or later you have trucks parked on the road, equipment parked on the road, and people don't want to see that happen. They feel that that belongs in an industrial area.

MS. LUKE: And this business is almost at the end of our street, which is a dead-end street, so it's quite a distance above the neighborhood, so these tractor/trailers are as they're ascending you really smell the diesel exhaust. And I don't know what kind of health violations. . .maybe he's complying with everything, but anyway thank you.

CHAIR COUCH: I have a question for you.

MS. LUKE: Sure.

CHAIR COUCH: Are these agricultural. . .

MS. LUKE: This is an agricultural neighborhood.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: Right. It's an agricultural neighborhood, but are these agricultural pieces of equipment? Because unfortunately in Agriculture, in an Agricultural District, you can have repair of agricultural equipment. That's an --

MS. LUKE: That's right.

CHAIR COUCH: --outright permitted use.

MS. LUKE: I don't know if you consider a bulldozer an ag. . . I'm sure you might consider it ag for say Maui Land & Pine, but for the average farmer Upcountry, I don't think they're driving around a bulldozer to plow the property.

CHAIR COUCH: Right. And when they deliver --

MS. LUKE: And backhoes.

CHAIR COUCH: --four of them in a truck. See this is where we're going to have to get into a --

MS. LUKE: Right.

CHAIR COUCH: --again, big discussion because we had somebody from the Kula Community Association come to the Chambers and say, don't get rid of ag, repair of ag equipment because that's part of being a farmer, you need to repair your equipment after hours, or there is a person who has a farm that does repair equipment so they need to take it and get it fixed before the next day so they're doing it overnight. So that's a permitted use right now in agriculture so. . .

MS. LUKE: Well, we have a farm tractor and --

CHAIR COUCH: Right.

MS. LUKE: --it doesn't look like. . .

CHAIR COUCH: Right. And that's where we got to get to, well, you know, a backhoe. Yeah, you can use a backhoe on a farm. I think Mr. or actually Ms. Cochran has a backhoe on her farm. But not a truckload of them, so that's going to be a tough one. We're going to have to figure out how to deal with that, because that clearly is a repair business in my mind.

MS. LUKE: It is.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: I don't know what the Department would say on that. Michele, do you have any comments on something like that?

MS. McLEAN: The repair of farm equipment would be allowed. Any other thing beyond that would really have to be accessory to agricultural use or another outright permitted use on the property. The pictures you showed I think go quite a bit beyond farm equipment or anything that could be accessory, like you don't need that kind of equipment on a two-acre farm.

MS. LUKE: Thank you.

CHAIR COUCH: Thank you. Alright, Members, any questions of the Department or anybody else? Anybody out there? Go ahead, come on up.

MS. CARY: My name is Lisa Cary. I just had a question about group classes when they talk about group instruction of traditional Hawaiian practices. Do things like yoga classes fall under that or is that a separate. . . I mean, 'cause they're just listing Hawaiian practices. So my question would be about other types of group classes.

CHAIR COUCH: At this point on this draft, I believe it's just cultural at this point for a permitted use, outright permitted use. Now for special use you might be able to get by with, I mean, you would be able to say, okay, I gotta work with. . . 'cause you're gonna need offsite parking for all your clients and the noise. Of course yoga isn't very noisy. I'm sorry, onsite, you're gonna need onsite parking. You can't park on the street. That's the biggest thing. If you've got room for the parking and whatnot, again I think it would be a Special Use Permit kind of thing, as opposed. . . 'cause you want the neighbors to be able to say, well, you know, they've been doing it for this long and they've been parking their cars all over the street, if they can find a spot to park in the back or whatever, we're okay with it. So you want the neighbors to be able to at least discuss it in an open forum and then have the Planning Commission decide whether or not. But definitely it's something that would be discussed as opposed to just an outright ban.

MS. CARY: Okay. And so they said the limit would be ten people. Is that. . .

CHAIR COUCH: Well, again with a Special Use Permit, you might get some conditions on there and it might tell you how many you can or can't have, depends on the type of classes and whatnot. So but right now it looks like it's set up for ten, but again that's, this is all up for discussion. That's why we're here and why we're asking you for this input. I'm guessing if you're on a 7,500 square foot lot, it's probably not going to be allowed because there's no place to park.

MS. CARY: One-acre.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: One-acre, do you have room to park all the cars that come? Then you might be okay, you know, as long as you've made peace with your neighbors and they're okay with it, it might be a situation where it'd be, that'd be something doable.

MS. CARY: Okay. Thank you.

CHAIR COUCH: Thank you. Alright, Members, if there's no other questions or comments. . .Mr. Mayer, come on.

MR. MAYER: I noticed you've added an additional meeting in Council Chambers next week on this prior to completing all the community meetings. Is that for just taking testimony like you are here, it's not for decision making or any kind?

CHAIR COUCH: Well, these are. . .I mean, we have it scheduled as decision making possibility, but we're not gonna make decisions on here. The Council Chambers is just like one of these where it'll be more. . .depends on how many people show up. We'll get more formal the more people there are, but since we have just a small group here, I decided it'd be fine to be informal like this.

MR. MAYER: Very good. Thank you.

CHAIR COUCH: Thank you. Okay, Members, any. . .go ahead, come on up.

MR. AMARAL: Thank you. Eric Amaral. Will there be any like notification of the neighbors through the Planning process or permitting saying, hey, I want to start a business here --

CHAIR COUCH: Yes.

MR. AMARAL: --within a parameter of whatever.

CHAIR COUCH: Yeah. In the special permit process, correct me if I'm wrong, Michele, there is notification of neighbors within 500 feet that. . .hey, I'm going in for this Special Use Permit. I believe. Is that right, Michele?

MR. AMARAL: Is it going to be detailed, fairly detailed, I mean, about the traffic flow or is it I just want to start a business or projection of use?

CHAIR COUCH: I would have to ask Michele that question.

MS. McLEAN: So glad I came tonight. If it's a special use then you do have to notify your neighbors within a 500-foot radius and that notification just says, I am applying for this

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

permit. It doesn't go into a whole lot of detail. The applicant could provide a lot of detail if they chose to, but they're not required to, but if it's a use that's allowed outright like some of these are then currently the bill doesn't have any notification provision.

MR. AMARAL: Can that be put in? At least your immediate neighbors and not 500 foot, but maybe just the corners or. . .

MS. McLEAN: Well, I'm just saying that right now, the bill doesn't provide for that, but it's up to the Committee to talk about that and decide.

MR. AMARAL: 'Cause sometimes it's after the fact then here it is and you're dead in the water, you know, it's already been permitted and it's up and running.

CHAIR COUCH: Yeah, that's why that notification is required and it also goes, I believe, in the newspaper, I think she said. I've seen tons of it in. . .it really pays to read the back section of the newspaper with all those legal notices, 'cause you look at one and go whoa, why are they doing this and that's right next door. So it always helps to, not that I'm pushing for *The Maui News* but that's where all of it is published. Thank you.

MR. AMARAL: Thank you.

UNIDENTIFIED SPEAKER: . . .*(inaudible)*. . .

CHAIR COUCH: Right. And, Members, anything else? Oh, yes, come.

MS. HINTON: My name is Cindy Hinton. In regards to the 500 feet, so that's neighbors that are pretty close to you, but what if there's, you know, a block away or two blocks away because somebody parked and they didn't like them parking on the street or something? I mean, is that. . .how does that relate?

CHAIR COUCH: Well, typically the process is 500 feet. Five-hundred feet from the edge of your lot, so all the way around, that's a long way away, you can get a lot of people within 500 feet in areas like this. But if you're in a half-acre, even in a half-acre place, you'll still get quite a few, but if you're in a two-acre then it drops down. Again, that's if you got a good neighbor, they would send it out, you know, they would go to your door and tell you what, where I'm doing is or gotta look in the paper, I guess. There's no other. . .the 500 foot is the law in this point on Special Use Permit process.

MS. HINTON: And if you have a business and a neighbor complains and you, and the County comes out and asks you to leave, is that, is that it, is there any recourse to say your side of it or is it just they look at everything and say yes or no? And if. . .will that change with this?

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

CHAIR COUCH: We're gonna go down to the end of the table. . .she knew that was coming.

MS. McLEAN: If we get a complaint, if the Planning Department gets a complaint, our inspectors first talk with the person who filed the complaint to say, okay, you know, what do you see, did you take pictures, what dates, so we get as much evidence from the complainer as we can. And then we'll go out and do our own inspection, see what we see and talk to the owner, and then we just have to determine whether or not a violation took place or is taking place. If a violation has taken place then we'll typically first issue a notice of warning, telling the person this is what you've done and this is what you have to do to correct it. And if it gets corrected then we're good to go. If it doesn't get corrected then we send a notice of violation, which has fines accompanying it and there's an initial fine and then daily fines that accumulate until the violation is corrected.

MS. HINTON: And there's no other recourse? That's just whatever that the person who comes out whatever they say is it...there's...that you're. . .

MS. McLEAN: What we. . .I'm not quite sure. It's. . .sometimes we do get into what he said, she said situation, and it's hard for us to verify.

MS. HINTON: Yeah. I'm not talking about necessarily disagreeing with the neighbor, just with what's going on on the property, they see this violation is this, this and this, and you're like, well, but it's. . .I don't know, you don't agree as a. . .I guess I was wondering if there was any other recourse. It's just what they said or if there's other people you can talk with, mediation or anything else to have the opportunity to keep your business where it is.

MS. McLEAN: Okay. So if a complaint was filed against a business then the business operator would have to correct whatever violations we determine exist. So if. . .right now the bill says you can have up to 16 customers per day come to your business, and let's say we said we have evidence that you had 25 people coming, you can only have 16, and then. . .

MS. HINTON: That's on the new, that's not the current?

MS. McLEAN: That's the new, yeah.

MS. HINTON: Yeah. Because isn't the current that you --

MS. McLEAN: You can't have any.

MS. HINTON: --have any.

PLANNING COMMITTEE MINUTES
Council of the County of Maui

October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts

MS. McLEAN: Right. So currently, if it was a current operator, we have evidence that you have people coming to your house, you can't do that, and then we would do a follow-up inspection and try to determine if the violation has been corrected.

MS. HINTON: Okay. Thanks.

CHAIR COUCH: Thank you.


...END OF PUBLIC TESTIMONY...

CHAIR COUCH: And, Members, I really appreciate your indulgence in having this discussion with the audience. I wanted to make our time worth coming out here and I thought it was very good discussion and I'm glad you guys decided to get up and talk. So thank you very much for Upcountry. Members, any further questions or comments? That being said, this meeting is adjourned. . . .(gavel). . .

ACTION: DEFER pending further discussion

ADJOURN: 6:50 p.m.

APPROVED:



DONALD G. COUCH, JR., Chair
Planning Committee

pc:min:131030-UpcountryMakHaikuPaia: mb

Transcribed by: Michelle Balala

**PLANNING COMMITTEE MINUTES
Council of the County of Maui**

**October 30, 2013
Upcountry and Makawao-Haiku-Paia Districts**

CERTIFICATE

I, Michelle Balala, 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 22nd of November, 2013, in Kahului, Hawaii.

Michelle Balala

Michelle Balala