

PLANNING COMMITTEE
Council of the County of Maui

MINUTES

Council Chamber

September 4, 2014

CONVENE: 9:00 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Donald G. Couch, Jr., Chair
Councilmember Michael P. Victorino, Vice-Chair
Councilmember Gladys C. Baisa
Councilmember Elle Cochran
Councilmember Stacy Crivello
Councilmember Don S. Guzman
Councilmember Mike White

STAFF: Chancy Hopper, Legislative Analyst
Kim Willenbrink, Legislative Analyst
Pauline Martins, Committee Secretary

Ella Alcon, Council Aide, Molokai Council Office (via telephone
conference bridge)
Denise Fernandez, Council Aide, Lanai Council Office (via telephone
conference bridge)
Dawn Lono, Council Aide, Hana Council Office (via telephone
conference bridge)

ADMIN.: Michael J. Hopper, Deputy Corporation Counsel, Department of the
Corporation Counsel
Joseph Alueta, Administrative Planning Officer, Department of Planning
William Spence, Director, Department of Planning

OTHERS: Peter Davis
Joseph Mitchell
Paul Laub, Governmental Action Committee Chair, Maui Native Hawaiian
Chamber of Commerce; and President, Maui County Veterans Council
Madge Schaefer
Plus (2) other people

PRESS: *Akaku Maui Community Television, Inc.*

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PC-33 HOME BUSINESSES (CC 12-74)

CHAIR COUCH: ... (*gavel*) ... Will the Planning Committee meeting of September 4, 2014 please come to order. It is now 9:01. My name is Don Couch. I'm the Chairperson of this Committee, and before we start please everybody turn your cell phones on to silent mode or off please. That way we won't disrupt the meetings. And I wanna welcome the voting members of this Committee. First we have the Vice-Chair of the Committee, Councilmember Mike Victorino.

VICE-CHAIR VICTORINO: Good morning, Mr. Chair.

CHAIR COUCH: Good morning. Chair Baisa will be here little bit later. Councilmember Elle Cochran.

COUNCILMEMBER COCHRAN: Good morning, Chair Couch.

CHAIR COUCH: Good morning. Councilmember Mike White.

COUNCILMEMBER WHITE: Good morning, Chair.

CHAIR COUCH: Good morning. And Councilmember Don Guzman.

COUNCILMEMBER GUZMAN: Good morning.

CHAIR COUCH: Good morning. Excused for the moment are Councilmember Stacy Crivello and Council Chair Gladys Baisa. And from the Administration we have Joe Alueta, and I believe is Mr. Spence coming today or?

MR. ALUETA: I, that's my understanding.

CHAIR COUCH: Okay.

MR. ALUETA: Good morning, Chair.

CHAIR COUCH: Thank you. Good morning. And Michael Hopper from the Deputy Corporation Counsel.

MR. HOPPER: Good morning.

CHAIR COUCH: Good morning. And Legislative Analyst Chancy Hopper. Good morning. And Legislative Analyst Kim Willenbrink.

MS. WILLENBRINK: Good morning, Chair.

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CHAIR COUCH: Good morning. And Committee Secretary Pauline Martins. Good morning. And I also wanna welcome Council Chair Gladys Baisa.

COUNCILMEMBER BAISA: Good morning, Chair.

CHAIR COUCH: Good morning. Alright, we have one Item on today's agenda that is PC 33 which is Home Businesses. And we're gonna start public testimony in just a second. We have a couple peoples signed up to testify. So without objection, Members, we're gonna get going with public testimony.

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Okay. For public testimony if you haven't signed up please sign up in the back of the room here at the desk. Testimony will be limited to this Item on the Agenda today. And each testifier will have three minutes to speak, we're gonna use the lighting system. The light will be green for three minutes and will be yellow for the last minute. To conclude and then when it turns red at four minutes you will be, we will ask you to finish your sentence. When testifying please state your name and the name of any organization you are representing. Alright., and I also want to welcome Councilmember Crivello.

COUNCILMEMBER CRIVELLO: Good morning.

CHAIR COUCH: Good morning. Alright, first person signed up to testify is Peter Davis, followed by Joseph Mitchell.

... BEGIN PUBLIC TESTIMONY ...

MR. DAVIS: Good morning, Chair Couch. My name is Peter Davis. I'm a resident of Maui Meadows and I'm here testifying individually and not in my capacity as the President of the Maui Meadows Neighborhood Association. Thank you for the chance to come and comment on this proposed bill. Maui is not the first jurisdiction to contemplate licensing home-based businesses. Others have taken a look at it before and I am particularly enamored of the preamble of the bill that was enacted on the mainland years ago addressing what is good and what is not good in terms of a home-based business. The comment on that preamble was in general a permissible home-based business is an accessory business used in a residence, located and conducted so that the average neighbor under normal circumstances would not be aware of its existence. I think that's something that this Council should strive to achieve in enacting its bill. Some specific comments I would have about the bill in its present form, Maui Meadows is a neighborhood of 600-plus lots. Most of them have separate ohanas. Because of the occupancy load on any given lot we already have parking issues. A number of our people park on the street as it is. We're an older subdivision, our roads are all narrow, two lane affairs. We don't have any curbs, gutters, and things like that. So when people do park on the side of the road, and they do, to avoid those cars driving through our neighborhoods we have to swerve in the oncoming lanes to get around

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them. We anticipate that any home-based businesses because of the existing difficulty getting all of our cars parked on the lots are gonna create more traffic and safety issues for us. Because there's gonna be parking by these business customers that's gonna occur out on the streets regardless of what's in the ordinance. And not try you address that other than try to mandate enough parking but it's gonna be an issue in Maui Meadows, we anticipate that. Another concern we have with the present bill is the signage. Signage is permitted up to four square feet. We think that as to Maui Meadows type of neighborhoods or even the smaller lots subdivisions, they get down around 7,000 feet, can be an intrusive sign. We recognize that signage is good in that it lets the customer know that they've arrived at the right address and they don't go wronging, knocking on the wrong doors. But if the sign gets to the size where it's actually advertising and promoting the business as opposed to just letting people know that they've come to the right place, we think that that's obtrusive. We would ask the Council to consider in small lot subdivisions such as ours reducing the maximum size of a sign. We think there's a couple of things in the bill that need clarification. Let's see....Section 19.67.040 speaks of businesses operating in any building on a lot or any structure. We're not sure what this means in Maui Meadows. We have houses with ohanas, does this mean that there can be two businesses, one operating out of the ohana, one operating out of the house? We would ask that, that be clarified. And I believe that's all the comments I have on the bill. Thank you for the chance to testify.

CHAIR COUCH: Thank you, Mr. Davis. Members, any questions of the testifier? Seeing none, thank you. Next up is Joseph Mitchell, followed by Paul Laub.

MR. MITCHELL: Good morning, everybody.

CHAIR COUCH: Good morning.

MR. MITCHELL: Can you hear this?

COUNCILMEMBER BAISA: Yes.

MR. MITCHELL: My name is Joe Mitchell. I live in Kihei. And I'd like to begin with a shot of philosophy and, you know, couple hundred years ago guy by the name of Benjamin Franklin or one of the other founding fathers was quoted as talking about our Constitution and obviously all of our laws done to the County level here, come down from the Constitution and he said basically, something to the effect that our Constitution was written for a religious and moral people. In the absence of that it will fail and while we need rules and regulations in the absence of people individual citizens who want to behave according to the rules it doesn't make a whole lot of difference. So the basic reason for that is, is that you can't police it, you can't police everything. A murder situation is far more serious than what I'm about to talk about. Public safety is far more serious than what I'm about to talk about. But we still try and in my neighborhood in Kihei there is a person who in my opinion is operating an automobile repair business. He says he's not or he indicates that he is not. For the last several years I have been in touch with various people in the County in the County government, Congress or Councilman Couch has been very helpful in trying to support my awareness of what is going on. But the

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properties involved are there are two properties and I'm not current. I wish I were more current on how the bill is presently written. I just found out about this meeting yesterday. I apologize for not being more aware. But the gentleman has been inspected, the County inspector came out, looked at the property. On the day that she was there, he happened to have four cars registered in his name on the property and his point was that he had those cars for his own use and he was maintaining them. Well on any given day when I drove by, drive by and I will drive by there usually several times a day, there are anywhere from one to fifteen cars, amazingly they are always different. Sometimes they're similar to things I've seen before. He owns a property at 279 Aone Street, across the street is a vacant house, according to what he told the inspector he owns that house. According to the tax rolls the last time I saw it somebody else owns the house. There are cars parked on the front lawn of that house, it's a pig sty. I was happy to see that the County did something about the other situation in Kihei that was in the paper a couple of days ago. But that requires an extraordinary effort. Anyway the net effect of all of that is that with the number of cars, the number of locations, oh yeah, I forgot the street is there, as I read the new regulation if he is violating what is today totally illegal how do you expect a new regulation to encourage him and others to perform in any different way other than what they are presently doing? The present regulation is he is also violating that today by the way. Because the regulation as I read it has four parking spaces, he always has more than four parking spaces. But he would probably choose to ignore it. Personally I have never heard of anyone complain about the lack of automobile repair facilities in Maui. I've never heard anybody complain about the fact that they are being gouged for having their automobile fixed. So my question is why should the County be so considerate of one automobile repair facility that we're trying to in effect foster that business? I don't know about the other two businesses that was animal raising that is specifically illegal today and the other one was manufacturing outside of specific small manufacturing inside the home. But anyway my hope is that if it's illegal today that was good enough for them maybe it should be good enough for us and make that illegal. Thank you.

CHAIR COUCH: Thank you, Mr. Mitchell. Members, any questions to the testifier?

COUNCILMEMBER COCHRAN: Chair, sorry.

CHAIR COUCH: Ms. Cochran.

COUNCILMEMBER COCHRAN: Thank you. And thank you Mr. Mitchell. Mr. Mitchell, are you, where's your residence located?

MR. MITCHELL: I live in Kihei on Panepoo Street.

COUNCILMEMBER COCHRAN: Oh okay and so in your neighborhood there's the place you described like one, just one person within your area that seems to be doing what you're...

MR. MITCHELL: Well I've heard comments that there are others but I believe that this is one, this is the one that I am personally aware of.

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

CHAIR COUCH: Thank you. And Mr. Mitchell, you said you didn't get a copy of the bill. I know that we have listened to the communities and taken automobile repair as a, as an outright permitted use and changed it to a special use. So at least the members will, the community will have a chance to speak up on whether or not they want an automobile repair business in their neighborhood. So that would make that illegal...

MR. MITCHELL: So would I, what I should do is read it and try to understand or understand what you just said that a special permitted use would be required for anybody asking to do anything one of which would be automobile repair?

CHAIR COUCH: Not anything but certain things, one of which would be automobile repair, yes.

MR. MITCHELL: Okay and then and say so if that stays in... who then approves or disapproves or who enforces or doesn't?

CHAIR COUCH: The Special Use Permit will be, is given out by the Planning Commission and the Planning Department would be the enforcement.

MR. MITCHELL: Okay. And do you, is there an obvious reason as to why an illegal activity today should be treated in a different way tomorrow, are there two things in it also under the same circumstance?

CHAIR COUCH: We'll be discussing that on the floor.

MR. MITCHELL: Okay.

CHAIR COUCH: Yup.

MR. MITCHELL: Thank you.

CHAIR COUCH: Thank you. Members, any questions? Seeing none, thank you, Mr. Mitchell.

MR. MITCHELL: Thank you.

CHAIR COUCH: Next up testify is Paul Laub and I see we have another person who signed up, I haven't seen the name but I'm guessing it's Madge Schaefer.

MR. LAUB: Aloha mai kakou. My name is Paul Laub and I'm here with two separate organizations. I'm first will be Maui Native Hawaiian Chamber of Commerce. I'm the Governmental Action Committee Chair, and first item is idle hands are the devil's play things and I think we've all heard that. The second thing is that a home-based business keeps Kupunas' minds and bodies healthy and active as opposed to just sitting around and watching TV. The businesses are also

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great for the caregivers who are taking care of these people who are happily working at whatever it is that they'd like to work at. This also provides for a source of additional income which is especially important for the rough economical times such as layoffs and spiraling costs, and it's also very, very important in passing down cultural skills and education to the keiki to be, to learn how to make things, to do things, and to be able to sell things, and make 'em possible to people. I think one of the key things that I do wanna keep in mind here is that if you pass this bill which we are very hopeful that you will, that you set aside that the property tax is not to be raised, because frankly people don't make enough money to compensate for an increased property tax. The second organization I am representing is the Maui County Veterans Counsel which I'm President. Work therapy is excellent for sufferers of PTSD. They need to work. They need have something to focus their mind on. And it is shown to have been extremely positive. Often PTSD sufferers cannot work a regular schedule due to their condition. They need an adjustable entry program to become re-enculturated into the society. And home-based occupations are ideal for startup businesses. And a PTSD sufferer when he's had enough, when he's had his frustrations, he can just shut it down and go back inside. I'm gonna tell you a little story about, I had a shop in 1971 and this Portuguese gentleman came in who was from the Azores and he didn't speak any English, he spoke a little Spanish, I spoke a little Spanish and no Portuguese. And he brought in these handmade toys, old style, nothing fancy that kids woulda made years and years ago. And we put 'em' in on, in the store on consignment and they were extremely well received especially by the adults. And this helped the gentleman with his economics, but it brought something that just I've never seen since, ever since that man passed back in the '70s. The last 40 years I have not seen these kinds of toys. And there's a lot of people with lots of talents out there that this would be very helpful for. Thank you very kindly.

CHAIR COUCH: Thank you, Mr. Laub. Members, any questions to the testifier? Seeing none, thank you. Next up to testify is Madge Schaefer and then we'll be going to the District Offices.

MS. SCHAEFER: My name is Madge Schaefer and I promise I'm not gonna be a regular. It's just the last time I was here I think was on this bill and black, back in October and then Tuesday, was yeah, Tuesday, and now today. So first of all, Mr. Chair, I'd like to thank you for this summary you all went out on a road show, and it was, it's very nice to know what the different communities thought about this bill. So thanks for the summary, appreciate it. I'd like to talk specifically about 1967.050. Item G, the Chair and I have had quite a discussion about the first sentence, on-street parking of motor vehicles to be repaired is prohibited. That does not say that without a Special Use Permit you cannot do auto repairs, and I think it should say that very clearly just like it says on H body shops are prohibited except on lots of two acres or more. I was fortunate when back in the dark ages when I was an elected official I was fortunate enough to be invited to the Kennedy School of Government, and the thing that I came away with was that whatever legislation you do, it should be so simple that the man on the street could come in, read it, and clearly understand what it's saying. And this doesn't say in any way, shape or form, now Don and I disagree on this but it doesn't clearly state you may not have an auto repair shop without a Special Use Permit. Please put that into this, that language into this, that would be, that wouldn't make the comfort level of everybody I think, much higher. On the issue on Item E, in the same Section it says vehicles, trailers, and other equipment associated in home business

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shall be stored or parked in an organized manner in an inconspicuous location on the lot. I hope that means that you cannot fill your front yard with vehicles in a residential area. And we've seen that happen, where there'll be eight or ten cars, they don't park 'em on the street, they park 'em in the front yard. And last of all on the auto repair, I did do, I did go back and get... I went back to my old city and asked for some information from their code, and it talks about repairs and it, of course they're not allowed, an auto repair is not allowed, but and it's, calls that out, I'm just wildly looking for it here. But what it says is that does not include someone repairing their personal vehicle, changing the oil or doing whatever you want do as long as it was in a timely manner. So doesn't mean if you're gonna change the engine you can put it up on blocks and leave it there for six months. I will find that language, it was very succinct and it covered, it made it clear that home repair, home auto repair didn't include a personal vehicle being, the owner's personal vehicle being maintained. I think that, I think is pretty well it. So I hope you'll change that language, I appreciate all the hard work that you, that you'll all continue to do on this, and I certainly hope the ninth floor approves of my testimony this morning 'cause they sure didn't on Tuesday.

CHAIR COUCH: Thank you, Ms. Schaefer. Members, any questions to the testifier? Seeing none, okay, let's go to the District Offices. Hana District Office, got anybody there?

MS. LONO: Good morning, Chair. This is Dawn Lono in the Hana Office and there is no one waiting to testify?

CHAIR COUCH: Thank you. Lanai District Office?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez on Lanai and there is no one waiting to testify.

CHAIR COUCH: Thank you and Molokai District Office?

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

CHAIR COUCH: Okay. Thank you, ladies. Members, if anybody out there still wanting to testify please come down and sign up later. Seeing none, Members, without objection, we'll close public testimony?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

... END OF PUBLIC TESTIMONY ...

CHAIR COUCH: Okay. Public testimony is closed. Thank you, ladies. Alright...let's get started. Members, the Committee is in receipt of the following: County Communication 12-74, from Planning Director, transmitting, in response to Resolution 11-97, a summary of the Lanai, Maui,

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and Molokai Planning Commissions' comments on proposed bill relating to home-based, home businesses; and also a correspondence dated August 29th, 2014, from me, transmitting a revised proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE". And the purposes of the revised bill are to establish standards and restrictions for the regulation of home businesses; establish home businesses as a permitted use in the residential and rural zoning districts, subject to qualifying standards and restrictions; establish home businesses as a special use in Residential and Rural zoning districts where permitted use standards and restrictions are not met, but the home business qualifies under special use standards and restrictions and obtains a County Special Use Permit; and also establish home businesses as a special use in the Agricultural zoning district. We met on this item on September 5, 2013, September 26, 2013, October 2, 2013 and October 3, 2013 and November 14, 2013. So it's been a little while since we've had a meeting on this. We've also had six district meetings and Members, I handed out a summary of what was said at the district meetings in case you lost your notes or whatever. But the district meetings included October 28, 2013, South Maui, we had ten testifiers; October 30th, Upcountry, Makawao, nine testifiers; November 5th, East Maui, five testifiers; November 14th, Wailuku and Kahului, we had no testifiers on that one; November 20th, Molokai, we had six testifiers; December 3rd, West Maui, we had two testifiers. So that's our list of community outreach that we did. Before we get going, I wanted to see if the Department had some comments. Planning, are you wanting to wait or are you, do you have comments now? You wanna speak about it now or do you wanna wait till we have our, get into our discussion?

MR. SPENCE: Why don't we wait till we get into discussion.

CHAIR COUCH: Okay. Good and Corp. Counsel, any comments before we start?

MR. HOPPER: Not at this time.

CHAIR COUCH: Thank you. Alright first of all, let's make sure we're all on the one that I submitted October 20, or I'm sorry August 29th which was a couple days ago... Okay, Members, let's take a look, we had some testimony as you heard from a couple Members that were have, concerned about auto body repair, and what we did is we took that out and we tried to clean up the language so it wasn't redundant, et cetera. But as you heard from one of the testifiers that, that still was unclear, for actually from two testifiers it was unclear. So I'd like to hand out a proposed change to 19.67.030 E, which basically says, adds, well I'll read E as proposed change. It says the repair, manufacture, processing, or alteration of goods, materials or objects that results in a detrimental effect or nuisance, as defined in Section 19.67.015 shall be prohibited. Automotive repair and body shop shall require a Special Use Permit as described in Section 19.67.050. So that should make it clearer, pretty clear. As one testifier said the Kennedy School of Public Policy [*sic*]. Okay. So with that let's open the floor for the Members to discuss, or do you want me to go through the changes that we did in the bill? Members, any thoughts? You wanna just go right ahead or why don't I just go through? Okay.

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VICE-CHAIR VICTORINO: Yeah because the public needs to know what you're doing.

COUNCILMEMBER BAISA: It's easier.

CHAIR COUCH: Okay. It's long so I will go through. But first I wanna take a one-minute recess. I'm sorry, yeah, one-minute recess. . . . *(gavel)* . . .

RECESS: 9:28 a.m.

RECONVENE: 9:29 a.m.

CHAIR COUCH: . . . *(gavel)* . . . Will the Planning Committee meeting of September 4th, 2014 please come back to order. Members, we'll just go through page by page. Page 1 if you take a look of course we changed the date to 2014 but the biggest change in there we added Section 1 which is new and it's the purpose of the bill, that wasn't in there before. So if you take a look at it, read it, see if you agree with what's in there, and then we can move on to the next section. I think the Staff worked hard on this one and think we got down a good purpose. I believe one of the testifiers read a purpose of a different one and this has extremely close language to the same. Any questions?

COUNCILMEMBER BAISA: None. No.

CHAIR COUCH: Okay. Then we go to Section two. We had some changes, we changed home business, it used to say, essentially we changed "that" to "which", that's not a big deal. But we took out nuisance, we moved it down into 19.67 further down, and I believe we took out base yards as well and we put that in the what is prohibited, explicitly prohibited. So wanted to make sure that we got that taken care of. And in Page 2 you'll see that in B at the top there we added "except as provided in Chapter 19.67 of this title". It's nonsubstantive but it's more clear. Then down to Item I, we basically say Bed and Breakfast homes subject to the provisions of Chapter 19.64 of this title, we removed a bunch of restrictions that talked about one-, two- and three-bedroom homes because that's already in 19.64. We thought that, that would be more clear just let it stay in one place instead of having to change it in several places. If we go to the next Page 19 or actually at the bottom of this page, 19.08.030, we basically are taking out the "are declared special uses, and approval of the appropriate planning commission shall be obtained" and changed the language a little bit. Its list there is in bracket and underline. We just basically added the word in to clarify what, that a Special Use Permit is required for these uses rather than using more general wording. Okay further down to number H, that was a mish mash of a couple of things so that cleared up what we wanted to do with domestic type businesses in the home that do not meet the definition of home business or home occupation, et cetera. Okay. Now if you notice on the old bill we alright, we on this new bill we added a Section 5. Because of the way our legislative stuff works we basically added Section 5 to allow for permitted uses in Rural. At the bottom at the very end it's Number 6, it says "home businesses, subject to the provisions", we added that whole section just for that one change. So that's the proper procedure for that. Okay.

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Section 6, we added Section 6, same thing, added "home businesses, subject to the provisions of Chapter 19.67". Section 7 and please stop me if we get, if you have a question so otherwise I'll continue on. Section 7 we added special uses in the agricultural area as required especially part B, if you take a look down there we re-numbered everything but on Page 6 at the top of Page 6, "home businesses shall be permitted in the Agricultural District if a State special permit pursuant to Chapter 205, Hawaii Revised Statutes, is obtained; provided the home business shall comply with the provisions of Chapter 19.67 of this title, and shall also obtain a County Special Use Permit if required by Chapter 19.67 of this title." We had some concerns about businesses at all on agricultural so State special use permit is required for most businesses on Agricultural. Okay. Now we get into the meat of the thing. Chapter 19.67 which is the crux of the matter here. We in 1967.015, we added that section to include a nuisance definition in the Home Businesses section and that was at I believe at the request of Corporation Counsel. This is nuisance as it is in reference to home businesses and nothing else. Okay and the language for nuisance we went round and round. I know Corp. Counsel would prefer not having any language for nuisance, but we felt it was very necessary to let people know that we don't, we wanna have the Planning Department or the Enforcement Division an opportunity to be able to at least point to this and say look, this is a nuisance. Okay and then if we go on further 19.67.020, we added a paragraph B to clarify permitting requirements for home businesses in State Agricultural Districts as we talked about, and 19.67.030 added a sentence to make section 19.04.040 reference apply generally to this section instead of just applying to Item A below. All home businesses, as defined in this section of this title, shall meet the following general standards. Okay, and then we crossed out the repair, manufacturing, processing, alteration of goods, materials, and subjects that results in detrimental effect nuisance as defined in this 040. I think we put that back up in 15 with that handout I gave you. Or that's in 030. Okay. We added again, we moved from permitted uses to general standards a few things. One of them was Item C and this is in 030, "a home business shall not generate traffic in greater volumes than would normally be expected in neighborhood in which it is located." That was in a couple places, it was in both in 040 and 050, and we consolidated and put in up in 030 as a general standard. Same with D "on-site home business hours of operation shall not interfere with the use and enjoyment of adjacent properties." I'm gonna come back to that one when we, after we go through this first pass. I'd like to come back to that one and we'll have a discussion with you guys on that. And E "the repair, manufacturing, processing, or alteration of goods, materials, or objects that results in a detrimental effect or nuisance as defined in section 19.67.015, shall be prohibited." And then we also wanted to add the language about automotive repair in that handout I just gave you. Okay. Then we move the parking restrictions that were in there, we put it into a separate section. We'll get to that in a little bit. Now interestingly F "the home business shall accommodate a maximum of four parking spaces of on lots of less than one acre, six parking spaces on lots of one to two acres, ten parking spaces on lots of more than two acres to five acres, and twelve parking spaces for lots of over five acres; provided that the parking spaces are utilized only between 8:00 a.m. and 7:00 p.m." That combined with the previous Item F should say that, that's what the hours of the business, because if you have a business if you have no parking unless somebody gets dropped off for the business I suppose, so that's what I'd like to discuss with you, how we might be able to deal with that. Because some people have mentioned that there's no hours now for the business. Okay and then we moved from permitted use to general standards again G "except for

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one ground side or informational wall sign, not to exceed four square feet". Now there was some concern that it meant four feet by four feet that is not correct. It is two feet by two feet if you do it square as opposed or one foot, you can go one foot by four foot if you wanted to or any combination thereof. But just to show you an example of what four square feet is this two feet by two feet right here kinda small. I mean think the guys in the back if there were some stuff on there, you know, hours of operation possibly and the name of the business and a phone number which is I think this is small enough but if we have concerns we can discuss the size. Okay. Then we went down into 19.67.040, we added an introductory sentence "where home businesses are permitted uses, the following standards and restrictions shall be met" and we list the restrictions. We added in B. B says "no more than 40 percent of the floor area of any building on a lot shall be used by the home business". We also added "provided that, for any accessory structure on a lot of 15,000 square feet or more that may not be used as long-term rental, 100 percent of the floor area may be used by the home business." Now that's a shed or whatever on a larger lot. We discussed that on the floor here so you folks request that in there. It cannot be an ohana. If, 'cause that's why we throw in there a long-term rental, it cannot be an ohana. You can't say okay, I've got an ohana thing so this is, it's gonna be 100 percent, my storage area. If you wanna make it your office that's fine, but it can't be 100 percent for the home-based business. And I'm assuming we're gonna discuss that but again that was from our discussions we had in all those meetings. Item C we re-worded, it says "no more than two customers shall be at the home business site at any given time, not to exceed a total of sixteen customers a day. We discussed that on the floor as well. We figured that you, you know, a lot of CPAs potentially or accountants or bookkeepers or I don't know something else would have couples come in, we wouldn't wanna prohibit couples from coming in and having the discussion with their people. So that's if you do essentially one per hour for an eight-hour day, one set of clients that's gonna be two times eight, sixteen. That doesn't mean you can have, you know, one person come in, and then a half hour, and then another person come in the next half hour. It's two per time and maybe we can discuss that a little bit further if that's an issue. I don't think that's gonna be a big issue but it could be something that the Planning Department wants to get more clarification on. Okay if you go to E, we re-worded base yards because it's really hard to find a definition of a base yard we determined, and there's some instances when I was living in Maui Meadows we had a person right down the street from us have an empty lot and used it as a construction base yard. Well this is a home business bill and that any restriction on a base yard would not work on that lot because there's no home on that lot, so we're gonna take that up in another issue because something like that is a there's no home to have a home-based business. So what we said for base yards we basically said "materials, equipment, or more than one vehicle associated with the home business shall not be stored outside a structure on the property." Now to make it clearer, I would also like to add instead of shall not be stored or parked outside a structure on a property and that's on the same handout that I handed you with the change to automotive repair. So that essentially gets rid of a base yard next to, that is part of a home business. It does not get rid of a base yard that is, that when there's no home on the lot. That we can't deal with in this bill. We have to deal with it in another item that we have in PC that's coming up after we pass this bill. Yes, Mr. White?

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COUNCILMEMBER WHITE: Just a question, does this relate to any particular size of property or does this apply to Rural zoning and Ag zoning as well?

CHAIR COUCH: As it stands now it's any size of property.

COUNCILMEMBER WHITE: 'Cause, you know, I spend a lot of time on the Real Property Tax website and there are a lot of folks and probably more in Ag zone areas, but likely in many that are Rural zoned that have large lots, don't have neighbors and I would be very concerned that we're putting a real crimp on some of our contractors that have small businesses and they and likely purchased parcels that allow them for housing their own equipment on their own property when it's not in use on a job site. So I'm a little concerned with the prohibition and maybe you've addressed it some other way.

CHAIR COUCH: We kinda have, this is in a, this is in 19.67.040 which is permitted, outright permitted use. Outright permitted use isn't allowed in Ag. It has to be a special use in Ag, so in Ag it's, we do allow sort of for base yards, that's in 19.67.050, we allow for something on larger lots so we, I think we've taken up that. 'Cause you did bring it up before as well.

COUNCILMEMBER WHITE: Yeah the, but this also I'm assuming applies to Rural lots and Rural goes all the way up to ten acres. So to me, you know, once you get over a couple of acres having a base yard is not gonna be too much of an imposition on your neighbors if you're surrounded by large lots.

CHAIR COUCH: Right. Okay so you're looking to see maybe lot size in Rural?

COUNCILMEMBER WHITE: That's my feeling but it's up to you and the rest of the Committee but I think --

CHAIR COUCH: Yeah we'll.

COUNCILMEMBER WHITE: --that's something we should at least be mindful of --

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: --because we may be putting some people in a real pickle, that aren't bothering anybody because of the size of their lots.

CHAIR COUCH: Right. Okay, I have it down for when we go through. I'm just going right through right now to say what we've changed and then we'll really get into it.

COUNCILMEMBER BAISA: I'll come back to that issue of the vehicles.

CHAIR COUCH: Okay.

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COUNCILMEMBER BAISA: I have a concern about that also.

VICE-CHAIR VICTORINO: And same here, Mr. Chair.

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: So, we have a number of us.

CHAIR COUCH: Okay. And remember that's in 040 where it's an outright permitted use as opposed to special use. Okay, in 050 which is now the special use, we added the introductory sentence "where home businesses do not meet the standards and restrictions set forth in Section 19.67.040, a Special Use Permit pursuant to 19.510.070 of this title shall be obtained and the following standards and restrictions shall be met. We go down to let's see A "two persons other than the member of a family residing on the property may be employed at the home business site." We discussed that for a while on the floor. B "no more than 40 percent of the floor area of a dwelling unit on a lot shall be used by the home business"; and C "the home business may use 100 percent of the floor area of any accessory building on the lot. Okay and this is Special Use Permit now. So we, it has to be heard through Planning Committee...Commission, sorry, we're a Committee. Then we go down to D about the signage, now E, "vehicles, trailers, and other equipment associated with the home business shall be stored or parked in an organized manner" that is inconspicuous, "in an inconspicuous location on the lot". That is based on testimony we've had and discussion on the floor. Now that might be something that we need to talk about a little bit further as far as the size of the lot, maybe in bigger lots we would allow for less inconspicuous, I'm not sure, we'd have to discuss that for quite a bit. Then we go to G, "on-street parking of motor vehicles to be repaired is prohibited. The repair and off street parking of motor vehicles shall conform to State and Federal regulations and shall be restricted as follows. Two vehicles for lots up to 10,000 square feet. Four vehicles for lots from 10,000 square feet to one-half acre. Six vehicles for lots greater than one-half acre to two acres and ten vehicles for lots greater than two acres." We discussed this at length as well. I'm just bringing that up to remind you folks that we had a long talk about this, and we added "body shops are prohibited except on lots of two acres or more", and again I think Mr. White brought up that there are places in Rural that allow for body shops, and again it has to conform to State and Federal regulations, we can't just outright permit 'em. They have to deal with what the State and Federal say and that's for painting and whatever else if they do it on a lot size greater than two acres. Alright, going down to Enforcement "home business proven to cause a nuisance as defined in Section 19.67.015 shall be subject to enforcement." That's 19.67.070...we've always had Administrative rules so that's nothing's changed there. And we took out a bunch of sections because it wasn't necessary, they were just small changes. So we I believe we ordered, we added B, "home businesses proven to cause a nuisance as defined in Section 19.67.015 shall be subject to enforcement" as well. So that's essentially the bill as it's a little bit different from the one we left back in 2013. So I guess we'll open it up. I know Planning has some questions and we can start from the beginning again and see what their comments and concerns are. Planning?

MR. ALUETA: Thank you, Mr. Chair. I think the two of us have some comments --

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CHAIR COUCH: Okay.

MR. ALUETA: -- and I guess questions on some clarity. But again thank you for taking it out to the public. I mean and being, thank you for taking it out to the public and getting some input from the general communities. I think that helps, we just again we're gonna be the ones stuck with the sort of enforcement and interpretation and so that's where we have some of our most of our concerns. One of our issues I guess is with regards to larger lots that have, allow for I guess 100 percent of their other accessory structures and so we'd like to know does that mean so if you have a larger lot I can build a 2,000 or 5,000 square foot warehouse on the property in addition to my single family home and use that and that will be my home occupation 'cause that's a, 'cause it's a warehouse.

CHAIR COUCH: And we discussed that on the floor, this is a Special Use Permit time so it would, the Planning Commission would have to and the neighbors would have to agree to it. But we left it open and again if you feel that it's too open let us know, but we left it open for the possibility of that if the neighborhood especially if it's on a five-acre lot or a ten-acre lot we left it open for that possibility, but it would have to be done at the Special Use Permit time and discussed at the Special Use Permit 'cause it's only in Special Use Permits that, that's allowed. Yes, no?

MR. SPENCE: That's, Mr. Chairman, that's not the way I read this provision in...Chair, you're looking at 040? Okay we're looking at on Page 7 permitted uses and standards number B, "no more than 40 percent of the floor area of any building on a lot shall be used by the home business; provided that, for any accessory structure on a lot 15,000 square feet or more that may not be used for long-term rental, 100 percent of the floor area may be used by home business." And there's just a couple of things with that, when the question, what I think what Joe's asking is can I just, if I have a lot that's a third of an acre or more can I just build, you know, a great big structure on it and this is my accessory structure and I can conduct my business out of that? That provides for a big building, then I looked up the definition of accessory structure it's supposed to be customarily, incidental, and subordinate to the principal building or use and not used for human habitation. So if it's customarily subordinate then we're putting it, to me it presents sort of a chicken and an egg kinda of thing. Now that home, or, you know, this, if this bill were to pass, now it is accessory and, you know, is it still customarily associated with the single-family residence or not? So I'm not sure, I can see lots of questions coming up on to how to interpret this, and we see a lot of very strange examples, come through our office and where we have to interpret a lot, so.

CHAIR COUCH: That's why we have you here. That's exactly why we have you here.

MR. ALUETA: We're just trying to figure out are you allowing accessory structures to an accessory use basically. Like if someone came in with a 2,000 square foot warehouse, we're gonna ask how is that an accessory to the single-family residence and they're gonna say well it's accessory to my accessory which is my home occupation and that ---

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CHAIR COUCH: That makes --

MR. ALUETA: --that's the rabbit hole we run down.

CHAIR COUCH: Okay.

MR. ALUETA: And so I guess that's one of the things there. Again because we did not attend I guess all of your community meetings we don't know and some of your discussions, we had thought that home occupation was gonna be maintained and home-based business was gonna be at separate. But according to the way I read this now is that home occupation is no longer, or is it still?

CHAIR COUCH: Yeah, we did not change anything with home occupation, we did not remove.

MR. ALUETA: Okay so home occupation is still an allowed use?

CHAIR COUCH: Yup.

MR. ALUETA: Okay.

CHAIR COUCH: So how would you propose fixing that if you have those concerns? Which no doubt somebody will see that loophole and try to exploit it so how would we fix that?

MR. SPENCE: Perhaps we would wanna discuss just outright, can you build a structure for your home business, you know, can you if you have a lot of 15,000 square feet, and I don't have any problems with that size just saying, you know, you can build an additional structure so large for, you know, I don't know what size that would be but you can build an additional structure for that home business.

CHAIR COUCH: But can you already if say we, you've got a one-acre lot and it's all lawn and you want to store your riding lawn mower in there and maybe you have a hobby where you do wood working and got a lathe and a saw and a few other things so you wanna build a 2,000 square foot shed? I mean you could do that as an accessory use to your home, is that correct? Taking home business out of this for right now.

MR. SPENCE: Oh yeah you can build a garage. I'd have to look up a couple of things. You can build a garage, you can put, you know, other small structures on your property, but I think what we're trying to avoid is I mean that would be generally associated with a hobby or, you know, something else you wanna put on your lot just, you know, in convenience with you living there.

CHAIR COUCH: Correct.

MR. SPENCE: I mean here I see somebody going okay, I have my house, I can build my business on my property, and because of this bill now I can say that this structure is accessory to my house and, you know, you'll get some pretty unusual and perhaps unattractive results as a part of that.

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So rather than, you know, if you're converting a garage to something that's, you know, people do that quite a bit. I can see that happening 'cause that garage started out as an accessory structure. I think we, what I'm trying to get at as we would want to specify if you're going to build a structure for your business we should put some limitations on that.

CHAIR COUCH: Okay and those limitations would be?

MR. SPENCE: That's what this Committee is for, Mr. Chair.

CHAIR COUCH: I mean we would like suggestions, you know, 10 square feet, 1,000 square feet, 10,000 square feet?

MR. SPENCE: There's gonna be, I mean certainly there's going to be setback considerations, you know, it's gonna be subject to Fire Code, et cetera, even at that they could be, they could, that could still result in a very large structure on a property. I don't know I haven't, you know, this only, I'm only looking at this for the, this particular thought for the first time today.

CHAIR COUCH: Okay I know we discussed it kind of at length. Mr. White?

COUNCILMEMBER WHITE: Thank you, Chair. I think what we're trying to do with this bill is to keep things in scale --

CHAIR COUCH: Yes.

COUNCILMEMBER WHITE: --in the neighborhood so I think it might be appropriate to look, have them go through the process of looking at whether it's done as a percentage of the square footage of the home or done as a percentage of the square footage of the lot, because I think as long as we try to control the scale --

CHAIR COUCH: Okay.

COUNCILMEMBER WHITE: --we may be achieving what we hope to achieve without creating...

CHAIR COUCH: Monstrosities.

COUNCILMEMBER WHITE: I think they've hit on a real concern.

CHAIR COUCH: Yeah.

COUNCILMEMBER WHITE: So maybe they can play around with square footage...

CHAIR COUCH: Maybe a percentage of the square footage of the lot. Would that help you guys?

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COUNCILMEMBER WHITE: Or a specific number like if you wanna build an ohana there's a limit to the size of the ohana.

MR. SPENCE: Right.

COUNCILMEMBER WHITE: So that would be somewhat consistent with what's done elsewhere.

CHAIR COUCH: My only concern and I agree with that but there is no limit right now on the size of a garage you can build, is there, Mr. Spence?

MR. SPENCE: Not that I'm aware of, Mr. Chairman.

CHAIR COUCH: Yeah, so you got a garage like I said with the wood, you know, your hobby of which is woodworking –

MR. SPENCE: Collecting cars.

CHAIR COUCH: Or what?

MR. SPENCE: Collecting classic cars.

CHAIR COUCH: Collecting classic cars, sure. You can so, then all of a sudden you move or whatever and somebody else comes in and says oh look at, I got this big, you know, 5,000 square foot warehouse now. As oppose to as he said you're in a, you've got a one-acre lot and you've got your home and say I'm gonna start my business and I'm gonna build a 10,00 square foot garage, you know, it's accessory, it's allowable as an accessory but now as Mr. Alueta said it's a accessory to the accessory use. So I yeah, that gets and I understand you guys run into those problems so I'm trying to figure out how to fix that.

MR. SPENCE: Yeah.

CHAIR COUCH: So I mean we're gonna go on our break here in a few minutes. Maybe we can hash, you can hash that out amongst yourselves and come up with something. Mr. Victorino?

VICE-CHAIR VICTORINO: And again I agree with Mr. White, you know, we need to set up some kind of standard or some kind of limitation, but the fast majority of what you're referring to would be larger lots –

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: -- which don't exist in the Central part of Maui. Very little large lots and so you're talking basically Ag and Rural areas which this would have a more a profound effect. And so I think we have to look at that as part of it, and 'cause in town or in Central Maui most lots, you know, a large lot is 12,000 square feet, you couldn't do, you couldn't build a 5,000 foot

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garage if tried, 'cause you'd be in your neighbors' yard someplace along the line. So I believe this is kind of a semantics, because we really gotta focus on what we're trying to do home-based businesses, I agree. A percentage, but the percentage could be really dangerous also if you have like Mr. White mentioned earlier, big lots where contractors have bought these lots to store materials and there is really no dwelling on it, then they put on a 10,000 foot square storage area. Because you also saying in some of these enclosed structures so you may be forcing some people to put enclosed structures where they don't have it now. The consequences could be that also. So anyhow let's take a break and I guess we can, you guys can go work on it and come back and...

CHAIR COUCH: Well I that, when we go on it, we're gonna go on break in about ten minutes --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --wanted to see if there are any other things that we can work with the Department.

MR. SPENCE: Mr. Chairman?

CHAIR COUCH: Yes, Mr. Spence?

MR. SPENCE: And perhaps the last thing I should comment on this, we'd probably like to go do some research and see how other municipalities treat this, it could be a floor area ratio it could be just an out light, outright specifics of the, you know, specific size, similar to what we do with ohana units, so probably and I doubt we're gonna be able to cover that during the break.

CHAIR COUCH: Well, okay, that's fine, I know we had Mr. Johnson come in and discuss some of that as well. One of the other possibilities is the percentage coverage of a lot, say you can only cover half the lot or a quarter of the lot.

MR. SPENCE: Sure.

CHAIR COUCH: That way we'll if it's a 7,000 square foot lot then you only get if you do a quarter --

MR. SPENCE: Okay.

CHAIR COUCH: --you know 1,000 square feet.

MR. ALUETA: But is that for is that total for house and, you know, other structures included so, if you've already got your lot coverage of your house and ohana can you build up to a certain lot coverage?

CHAIR COUCH: That's a good question.

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MR. ALUETA: So again and again because this is applying, you're expanding it to I guess kind of the rule on Ag. I'm not sure the 15,000 square feet lot, there's gonna be that many --

MR. SPENCE: I think there's gonna be enough.

MR. ALUETA: Yeah.

MR. SPENCE: I think it will surprise us.

CHAIR COUCH: And that's the other part of this. I know we were discussing, you know, get as much as we can, you know, if we can get 80 percent of everything taken care of then give you guys a chance to work with it and come up with oh my gosh --

UNIDENTIFIED SPEAKER: Sure.

CHAIR COUCH: --you know we missed this. I mean that's kind of what we do anyway with all our bills but we try and catch as much that you guys have experience with, you know, people already trying to get through the loophole so, we value your input greatly.

MR. SPENCE: Thank you, Mr. Chairman. Next one?

CHAIR COUCH: Next, yeah.

MR. SPENCE: The next one I'm and I'm sorry it's been a while since we've discussed this proposed bill, on Item D.

CHAIR COUCH: Of which section?

MR. SPENCE: Same section.

CHAIR COUCH: Which was?

MR. SPENCE: This is 040.

CHAIR COUCH: Yup.

VICE-CHAIR VICTORINO: 040.

MR. SPENCE: Okay so "any structure associated with home business shall not require the installation of mechanical equipment other than the equipment which is common in a residential dwelling unit. Should that read, "shall not allow the installation of a"...

CHAIR COUCH: Yeah, I was a little concerned about that, that word there too. I don't know that requires the right.

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MR. SPENCE: Because your, if somebody wants to install a, in of course all the things that come to mind are things that would, could potentially create a nuisance for the neighborhood. But I'm thinking like a cabinet shop, a small cabinet shop you shall not require the installation of mechanical equipment, that doesn't make sense, you're.

CHAIR COUCH: I think it's, I think the intent was there that you can't add stuff that isn't normally --

MR. SPENCE: Commonly found.

CHAIR COUCH: --normally found in a residential area. And if your business requires that kind of equipment--I think that's where the word require came in--then it needs to be a special use or...

MR. SPENCE: Perhaps we should, we could re-word that just to make it...

CHAIR COUCH: Okay.

MR. ALUETA: Okay, so you're looking at, I mean, is the intention like so if you're doing, if you need to have a car lift --

CHAIR COUCH: Right.

MR. ALUETA: --then you need to go for a Special Use Permit, if you require a spray booth, because you're painting cars, you need to have a...

CHAIR COUCH: Well that's under body shop anyway.

MR. ALUETA: Oh okay I'm sorry, there are good, okay.

CHAIR COUCH: But for instance the other thing that people always mention most of the time in the community meetings was the air wrenches.

VICE-CHAIR VICTORINO: Air guns.

CHAIR COUCH: Air guns, yeah. Does that, that's not normal residential stuff, I mean even if you are, you know, fixing your car do you normally have a...

MR. ALUETA: I think pneumatic tool, I mean that's off of any small compressor a pneumatic tool can be used by a lot of people. I think you, I think it's come in, I mean like I think we're talking like if you require like a phase three, you know, plug because you're running ...(*inaudible*)...--

CHAIR COUCH: Oh yeah three phase, yeah.

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MR. ALUETA: Three phase, I mean that's, is that gonna trigger so if you're using that because you have a table saw or a planer that does that because you're doing woodworking does that, that kicks you up to a Special Use Permit, if that's the intention.

CHAIR COUCH: If it's a business I would say yes, if it's a home hobby, not necessarily. It's all talking about getting businesses, I mean I know Mr. White's a woodworker. Thank you, Mr. White. But this was I'm sure was done on a lathe, which requires a three phase, but he's not selling this stuff.

COUNCILMEMBER COCHRAN: Really?

COUNCILMEMBER WHITE: Yeah, it does bring up a challenge because a lot of people, I've made a lot of my own furniture and so, you know –

CHAIR COUCH: But you're not selling it, right?

COUNCILMEMBER WHITE: No.

CHAIR COUCH: That's the key, you're not doing it constantly every day, disrupting the neighborhood, as opposed to occasionally you're gonna make this furniture or that furniture. I think that's where we're gonna try to find the balances is.

COUNCILMEMBER WHITE: Yeah, I think, you have to, it's very difficult to identify where the transition takes places --

CHAIR COUCH: Exactly.

COUNCILMEMBER WHITE: --between a business and a hobby.

MR. SPENCE: And Mr. Chairman, that's exactly the way that I would look at it, if somebody came to me and say can I do this in my house, I would go okay, do I know anybody with a hobby of, you know, whether it be woodworking or, you know, every year, you know, for the County Fair we see the parade of people with their race cars and they're extremely proud of them, you know, guaranteed their hobby of those drag cars is gonna involve pneumatic...

VICE-CHAIR VICTORINO: By the way a lot of those are antiques not race cars, so let's get, okay because you going get everybody nervous, antiques and then you have some, but most of those are antiques.

MR. SPENCE: Oh yeah, absolutely, well I think about the drag cars but I also think about there's some just spectacular hot rods on the roads or antique cars whatever there's a lot of pride in that, you're gonna have pneumatic tools as a part of that hobby, so where do, as Mr. White says where do you draw the line, it's gonna be tricky to do.

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VICE-CHAIR VICTORINO: And I guess the other the part of that is how do you prove it, you know, where do you draw the line and how do you prove it? Because I might take my car to my brother-in-law to help me out because he does things like that. He may charge me for parts, but he doesn't charge me for his labor --

MR. SPENCE: Right.

VICE-CHAIR VICTORINO: --so is that a business? Interesting dynamics.

CHAIR COUCH: Yeah, oh right as opposed to one of the testifiers who it's obvious that this a, an automobile repair shop right there, so. Okay at that, let's take our break, we'll take it as, little bit longer, let's get back at 10:30 but please come back at 10:30 and then we'll have some discussions. I'll see what we can come up with some of the concerns of the Department. So this meeting is in recess. . . . *(gavel)* . . .

RECESS: 10:12 a.m.

RECONVENE: 10:34 a.m.

CHAIR COUCH: . . . *(gavel)* . . . Will the Planning Committee meeting of September 4, 2014 please come back to order. Okay Members, we had a chance to discuss some stuff with the Department and Mr. Alueta, we discussed a little bit about there's another Item before this Committee it's called PC-27 which is Residential Use and in that, Mr. Alueta, can you give us a little heads up on that.

MR. ALUETA: Thank you, Mr. Chair. One of the items that we do have for again dealing only with the Residential District it's a, the bill consolidates basically the R-0 residential and the regular Residential District into one District, again a simplified table form. But one of the things we did incorporate in it, which was new to the County, I guess is the concept of lot coverage, and I remember, I mean we had that whole, we did some work on not only with the Hotel District, and we had heights, and, you know, and floors and all that. But we did the same thing, we had the same similar exercise where how big of a house could you build if you had such a small lot or a big lot, and so and we, I think our proposal right now is still like at the 40 percent and we felt that for lot coverage. And so in the case of how it kind of dovetails into some of things that we're talking about other accessory structures that may be done if that bill passes with that 40 percent provision that 40 percent provisions would also count that accessory structure. So if they had a house and ohana and they tried to build another like a shed or something like that or a small warehouse it still could not exceed that 40 percent lot coverage 'cause it's a lot coverage. Okay, so that's food for thought if that helps. I think another thing that we talked about I didn't wanna mention was use of vacant lots for storage or within or as a home, or home-based business or warehouse, you cannot build if you had a residential lot and you came in and for just a building permit for a storage shed you would not, it's not a permitted use. You have to first establish the principal use before you can get the accessory structure like that, okay. So that's where we've had people come in and we said unless you have a building permit for the

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residential house, we're not gonna approve a storage shed standalone. So if people are using vacant lots as, you know, quote, quote, warehouses or whatnot that would not be an allowed use by right in the Residential or Rural District, they would need to get some type of Special Use Permit or Conditional Permit from the Council.

CHAIR COUCH: And for Agricultural lots we do have already a maximum of coverage, right?

MR. ALUETA: That was my...I believe there was for standard Agricultural lots there was a lot coverage provision and then but I do not believe it applied to sub-standard agricultural lots. I can look, we can look that up and see what it is.

CHAIR COUCH: Okay. So Members, that kinda helps with the, you know, just building a big huge warehouse in the back of your lot if but that's also gonna require us to have some sort of lot coverage provision in the Residential District which we're working on. Probably in the next couple meeting we're gonna come up, 'cause we wanted to get this done first and then bring up the Residential so that we can combine everything in one big happy package. So keep that in mind when that subject comes up, when that item comes up is that like Agricultural Districts we want to have maximum lot coverage in Residential areas as well. Wanna take a look at and deal with that and that will fix the issue of the size of the warehouse you can build if you're gonna do that. That should close that loophole and concern that the Department had. So Mr. Spence, you have any other concerns in this? I know you said you had a list of comments that you wanted to make.

MR. SPENCE: I think we're okay right now.

CHAIR COUCH: Okay.

MR. SPENCE: I'm sure there will be more.

CHAIR COUCH: Members, any concerns and remember we've got a couple of issues here, we have what can happen on a Residential lot if it's vacant certain things can't happen and that's gonna be handled in another item versus what is happening in a lot that has a dwelling, a home on it, and what can you do to, as an accessory use to that dwelling and I know especially on Ms. Crivello's item there's a definite need for some sort of allowance for this kind of thing. Am I right, Ms. Crivello?

COUNCILMEMBER CRIVELLO: Right.

CHAIR COUCH: Yup.

COUNCILMEMBER CRIVELLO: But I think most of our lots are Ag.

CHAIR COUCH: Okay, alright members any...Mr. Victorino?

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VICE-CHAIR VICTORINO: Yeah and Chair, thank you. I think we're a lot closer than we were and I appreciate all the work Staff has put in and, you know, taking all our concerns and trying to incorporate. And again I think you mentioned something earlier and I agree. All of us agree that there's no perfect bill, no matter how hard we try, there's gonna be something that's either missed or gotta be looked at, and again if we have assurances that after 18 months, 24 months we go, and again I always gotta put that provision of revisit.

CHAIR COUCH: Oh sure.

VICE-CHAIR VICTORINO: Not wait till something is dreadfully wrong or having a real challenge but putting that revisit clause in all of these, because I really believe we need to know as a Council something effective or not, is that ordinance doing what we intended it to do or do we need to make some tweaks to make it do what we intended it to do, so.

CHAIR COUCH: And I agree with you Mr. Victorino. I think we should add that as 080, I guess.

VICE-CHAIR VICTORINO: What, where ever, just put in and 18, 24 months. Something that is giving them enough time to really see how it's working and the residual effects, and the next thing I would like to mention is that the ability to enforce. I mean I think --

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: --this is something that we keep hearing time in and time out. No matter what we try to put forward and we have more regulation than sometimes people have ants in their house. It, you know, unless it's enforced it don't get done.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: You know. You like that comment, that was real graphic, right, you got that one real quick, yeah and you know, and I make joke of something like that but it really a true factor. I hear more complaints about lack of enforcement of all these various ordinances that we have there. So again, Department, if, my question to you is with something of this nature the way it's crafted right now and then we're gonna move into the other areas very soon, is enforcement, are you clear that you can enforce the vast majority of this bill, this ordinance? And if you're not or you have really major concerns, I wanna hear it now not later, you know.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: I think that's, you know, that's my question. Can you enforce what's right in front of you right now?

MR. ALUETA: Okay.

MR. SPENCE: Go head.

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VICE-CHAIR VICTORINO: And that's not a trick question, promise.

MR. SPENCE: And you're referring to can we enforce what's in front of us right now --

VICE-CHAIR VICTORINO: This.

MR. SPENCE: --in terms of this bill?

VICE-CHAIR VICTORINO: In this terms of this bill, yes. Okay, yes.

MR. ALUETA: It's whether we can enforce effectively is more the question, how much effort. As I was talking with the Chair earlier is like you're moving the onus of proof from that, from the I guess the residential person or the client or the citizen to the County to proof, okay, 'cause right now if you run a business out of your home it's not, outside of the home occupation, it's pretty cut and dry, it's not an allowed use right now. So if you are doing any type of commercial activity out of the home it's easy for us to go and say stop what you're doing, it's not an allowed use, here's your notice of warning and move from there and normally we get a quick response, okay. It's pretty cut and dry. Now it's an allowed use under certain provisions, and their answer now is gonna be well then I am in compliance with the law, you prove that I'm not. And the proof that we have we have to show there two areas. Is it a nuisance? As we talked about earlier, a nuisance for one neighbor may not be a nuisance to the other neighbor. Who's, who do you take? Whose call is it? You have some measurables in there such as vibrations and stuff so we now have to have our again the proof is on the County. We now have to camp a County vehicle out in front of someone's house and try to measure vibrations or see whether noise levels are of a certain activity. Have to have that inspector go early in the morning because maybe that's when the complaints is mostly prevalent because it's at 6:30. The delivery of, parking of vehicles or whatever. The other one was visitor or traffic that is above what would be considered normal. I mean if you're a really popular guy and you have a lot of friends and, you know, you they all come over, that 16 people I mean in and out, I mean is that considered, what's gonna be the considered normal traffic a day? I mean I don't know if anybody comes to my house while I'm not there or even if I was there I rarely get visitors so maybe I'm just a normal so what I'm not very popular so they don't know us to come out to the...

VICE-CHAIR VICTORINO: We get popularity contest right, okay.

MR. ALUETA: So what I mean that's where it's gonna be you've pushed the ownership of proof or the monkey of proof to the County inspectors, to our, to the Planning Department and that's where we're going to have our difficulty. And like I said we can enforce, how effective that enforcement will be is could be, come into question because it's gonna take a lot of time to develop enforcement and evidence of violation that the person is conducting a home occupation that does not meet the standards. And then it will become oh okay I'm sorry, let me go file for my Special Use Permit because that will be the answer to resolve the violation. And I will file for the Special Use Permit and then at that point we will go through again additional Staff time to

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process the Special Use Permit and notification to the Planning Commissions. And so again it's one of those things where, you know, we had the home occupation and then I guess their initial concept was kind of a low-hanging fruit situation, what are the uses that are, we know are clearly not gonna be obnoxious that you wanna capture such as and that, that's what home occupation did. And then you have we wanna expand it a little further to allow people to have clients such as architects, accountants, massage therapists, and we kinda, we almost listed them that they're gonna have certain clients, they need to have clients come to their place. But what's, what we have here is I mean it's a good in concept in the sense of but you've expanded it to be more broad brushed and it can be applied to almost any type of commercial activity, and so again it's a very tricky dance that this Council has taken on the task of going out to the community to find out what's happening, and so I don't...I admire you for taking on the challenge, it's a very, it's a tricky question. Like I said in the beginning when we were doing some of our updates to the other sections of our Code it's easier to insert Residential uses into the Business District as we, you saw with our amendment of our business bills, people know some people want that lifestyle, live, they know their gonna live above a business. They know it's in the Business District. It's another situation where you have well established Residential communities and you want to establish certain type of businesses. We have, you know, B&Bs, we have STRHs, and then now and then we have home occupations. Now you're going to insert home-based businesses so you need to be again the, we talked about cumulative impact, what is the cumulative impact of having many of these density like you have with the B&B or STRHs, so sorry about my long speech, sorry.

CHAIR COUCH: And that's alright. That I understand what you're saying, Mr. Alueta, you could always say that, that would be job security for the Department but.

MR. ALUETA: Yeah.

CHAIR COUCH: But the other issue, you know, the home occupation and, Members, I wanted to explain this before we get into your comments. Home occupation actually was a list of things you could and couldn't do, but as part of our discussion with Mr. Johnson, there are things that are happening now that never existed 10 years ago, 15 years ago. There were occupations that just didn't exist. So we don't know what's gonna happen so to add and subtract every year or every two years when you revisit the bill may be a little difficult. That's why we decided to pull out the actual list of can and can't and say impact based so I just wanted to remind the Members that, that's what we were trying to do is do an impact based versus a specific list of can and can't.

VICE-CHAIR VICTORINO: Mr. Chair?

CHAIR COUCH: That being said I know Chair Baisa had some questions and Ms. Crivello, and then Mr. Victorino. Go for it.

COUNCILMEMBER BAISA: Thank you, Mr. Chair. I wanna follow up on Mr. Alueta's remarks. You know although we may be opening that door to more discussion and more debate about what is and allowed and what isn't allowed or whatever, the fact is that we have a situation here that has

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created us the need to do this. All of us are aware and I'm very sure that if we could have an open discussion here we can probably tell you about 50 businesses that we know that are operating that should not be operating and they are causing impacts on neighborhoods. They are causing impacts on neighborhoods, bad impacts, but, you know, when it's a neighborhood this other factor comes into play and that play is do I turn in my neighbor? And then I'm gonna have to live with him. I bought this house. I paid for it. I'm used to living here. Where am I going? Oh I'm going to have this angry person next to me and then he'll probably turn up the whatever makes noise. Or go up and down the road at 3:00 and back his vehicle and take care of me. So, you know, this is really touchy. So I think we have our head in the sand if we're saying that, you know, we're gonna cause a problem here. 'Cause we already have one. The question is would this and I don't know until we try to pass this law and see what the result would be. What would happen if we did pass this law and it was clear, you know, you are allowed, you're not allowed, you need a Special Use Permit, or whatever. I mean is that going to help the situation? Then there's the other side of this debate is we pass this law and people that are having their income from this business that's annoying everybody, lose that income is that what we want too? So as much as I wanna see this pass and I really would, I'm a big fan of home business. I just wanna make sure that if we pass a home business bill that we don't cause any more harm, that we limit the impact to our neighborhoods, that we, you know, somehow regulate all this stuff but that we don't create a bigger regulatory nightmare. And, you know every time we pass a law, we get into this thing about enforcement, and I don't know how we help the Planning Department with this enforcement thing other than them having to hire more people or contract some spy service or whatever they need. But, you know, enforcement's a big deal, I don't like creating laws that we don't have the capability to police and putting big impacts on departments. You know, we pass the law and then we say okay, you cop, policeman, you folks enforce this and they're doing the best can they can, they cannot. We pass the law, we give it to you and say okay, now make sure that none of this is going on and you try to do it and you have a problem. And, you know, passing laws is not what it appears to be, it is and I see Mr. Alueta laughing because, you know, he's been in this business far, far much longer than I have, but I got it, Joe, and I understand how difficult this is. It's difficult to pass the law and then it's very difficult to live with it. So in passing laws we gotta be very, very careful and this is why I'm glad we're having this discussion again, and apparently among ourselves we still not 100 percent in agreement as to what we wanna pass. Mr. Chair, maybe we wanna bite away at this instead of doing a total revision. I don't really know but it's not an easy one. I do like the idea of people doing businesses in their homes and creating a little extra income for them. But I do have concern for businesses that get too big and cause problems in their neighborhood, because after all that is where all of us after dealing with stuff all day wanna go home and have a quiet dinner and watch TV and enjoy time with our families without being impacted by craziness around us. We have that all day. So this is not an easy one, Chair, and unfortunately none of us are Solomon, but maybe we just keep biting away. Thank you.

CHAIR COUCH: Thank you. Ms. Crivello?

COUNCILMEMBER CRIVELLO: Thank you, Chair. I would have to agree with Chair Baisa. It's easy for us to put things that this is law. But I have to ask how are we gonna enforce it? I mean

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you've heard the testimony, where matters are going on and what do we do? I know of people who complain because you have tree trimmers operating out from their residence with all their big construction vehicles and they don't wanna turn them in. They don't know what kind of repercussion they're going to have and it appears as though this is so complaint driven that, like Chair Baisa said there's no policing and then do we have, can we afford to have the policing as well as the enforcement and what comes out of this if, you know, for instance if they need a Special Use Permit and we say okay you've, this is against the ordinance that we have set forth for home business so now go get your SUP. I too support home businesses, it's a sort of unsung economic engine that does happen especially in the rural areas, and how do you, where having all of this all in place but no make sense if you cannot enforce it, you know, it just doesn't, you know, so how do we word it so that it's not, so people can, will respect to be in compliance and Planning Department can afford to enforce or slash, police. So I have concerns, I think we need to work on this more with the, what results do we want out of this. I think that's what we have to consider.

CHAIR COUCH: Okay. Mr. Victorino?

VICE-CHAIR VICTORINO: I think they covered pretty much all the matters that I was going to cover. The only thing I'll say is that Mr. Alueta pointed out very clearly that now the way it stands pretty much you can walk in and say you cannot, you're not allowed to do this business in your home. Problem is it's still complaint driven, right, you're not gonna go to the house and check it out unless somebody complains. I think that's where the real challenge comes up is how we get this taken care of, and again as I said earlier what is okay with me, a new neighbor moves in, it's totally different and all of a sudden you got another problem yeah, and our neighborhoods are changing and changing quite rapidly. We have a new influx of people coming in who don't have the same concept of neighbors as we have grown up with. So that's another issue, but again as I stated earlier there is no perfect ordinance, perfect law, perfect policy. Until we put it together and that's why I review, you know, within 18 months is important because I think this could have an impact very, very quickly on a lot of people. And then you have Molokai, which is different than maybe Maui County. Or you have Hana, which is and I think the gentleman who came also pointed that fact that different communities would have a different response so there is no one fits all as far as the size is, as far as an ordinance is concerned. So again I wanna support what you've brought forward, I still hear a lot of questions, I still hear a lot of concerns. But again, if this where we're at right now and everybody feels comfortable with it I'm willing to give it a shot, Mr. Chair. 'Cause you and Staff and all of us have put in our mana'o and we've kept constantly changing it, trying to put everything in perspective and it's not gonna work and Mr. Alueta shaking his head saying no. No, no and that's okay, Mr. Alueta, and I appreciate the honesty, you know, I've never heard you go through such a long dissertation, I thought you was Portuguese for a moment there, whoa. But no I think it's important, you know, again effective enforcement is really the key, and creating new laws that do not have effective enforcement is just like probably doing nothing, and those testifiers that came and said hey, it exists now, how will this law change because it's illegal today, tomorrow get one new law, it's still illegal, how do you enforce it? I guess that's the key right there, effective enforcement. So I'll wait for your recommendation, Mr. Chair. I think all of us feel like something needs to be done.

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COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: Thank you and so yeah and I understand the whole frustration with enforcement and the difficulty in doing so. But what I'm finding with like no parking areas and loading zones, until we actually put up a sign that clearly states the violation that can occur if you park here or whatever then the, our officers can't ticket or fine that person, arrest, whatever for the cases, so I think it's kinda like well, people are doing it but, you know, people are complaining but until there's some kind of word in black and white that totally states it then you can't really take action on it so to speak. So I think that's kind of where we're at again yeah, enforcement not easy but if something is drawn, that line is drawn in that sand and it says you step over it then we can so I don't know. It's kind of like how I'm seeing it right now.

CHAIR COUCH: Right and I agree with you. There are like I said there is a list of things you can and can't do now but that keeps changing. I think in that list is Turkish baths.

VICE-CHAIR VICTORINO: What?

CHAIR COUCH: Yeah, that's what I'm saying or some things like that, there's things that happened long time ago that are in a list of accepted uses in certain places, I'm not saying in the whole occupation.

VICE-CHAIR VICTORINO: In Hawaii they call 'em furos.

CHAIR COUCH: Yeah I know, but I'm saying that's why we don't wanna really do a list, and Ms., what Ms. Cochran says is we gotta have something down that then we can tweak as time goes. Ms. Chair Baisa?

COUNCILMEMBER BAISA: Okay, Turkish baths, I love it. I forgot about that.

CHAIR COUCH: Yup.

COUNCILMEMBER BAISA: You know there are those ridiculous things in this list that as it exists and correcting that I don't think is any issue. I think everybody realizes that, you know, the saloons from the gold rush are no longer around, and shave and a haircut is hardly existent anymore. But, you know, there are things that, you know, we obviously are incorrect and need to be fixed, updated but I think when we get into things like how much a percentage of a lot or how big or whatever, that's where it gets really dicey 'cause we gotta be careful that we don't make a law that's not practical. And I think as long as we're dealing with self or what is it, complaint-driven enforcement is what I'm looking for, it's gonna be an issue because people are going to be afraid to call and make complaints because sometime the complaint I think always the complainant is released.

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CHAIR COUCH: Well, you know, that's...

COUNCILMEMBER BAISA: We will not talk about that, that's an issue, that's why people don't complain.

CHAIR COUCH: Yeah, I have just written that down to bring up when we have a opportunity, then you brought it up so let's talk about that. Right now the RFS system requires a name and address because there were too many anonymous complaints before. But there are still people who have concerns about repercussions so what I know what our office has done is we'll take those complaints and we'll fill it out, I'm willing to go head and fill it out and say somebody has complained. So I don't know if any other office is doing that I'm sure you do. That may be a way for people to be able to complain. Your office can say yeah, that's a legitimate complaint, I'll file it on behalf of a constituent. I've had a couple people call and say hey, who turned me in? I said well, that's none of your business, are you doing it right, are you doing it or are you doing something wrong? And I'm willing to do that, I'm sure most of you guys are willing to do that as well. So that's a potential way to get around the concern and but our offices are gonna have to say, you know, come to us and complain and that may be more work for our offices but that's a potential way of doing it to protect both the both sides. If you get a, keep getting somebody who's just saying oh, I don't like that person and I'm gonna complain, we're gonna say, you know, work it out, you guys, or if we're gonna say this is legitimate, we take a look, I mean I've been able to go to Google Earth and say oh yeah there's 15 cars parked down in front of that lot. I'll be glad to file that complaint. So that's a potential way around the neighbor versus neighbor issue. What do you think about that?

COUNCILMEMBER BAISA: Well that works if people know about it but then I would imagine that most of the public would not think to call their Council member and complain, believe it or not.

CHAIR COUCH: Yeah.

COUNCILMEMBER BAISA: Because we get the complaints we think everybody does that and everybody knows but most people don't. But you know if let's, can we, you wanna get back to some of things that you wanna hear about this...

CHAIR COUCH: Absolutely.

COUNCILMEMBER BAISA: Okay. On line, on Page 7 I think it is, 19.67.040 the first one A. It says only one person other than a member of the family residing on the property may be employed at the home business site, only one person other than a member of the family. So any member of the family or all members of the family or is it just one member of the family? I mean I could read that both ways.

CHAIR COUCH: Well the intent there was saying --

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COUNCILMEMBER BAISA: A family member.

CHAIR COUCH: --if it's family business anybody in the family can be an employee. What it's saying is only one other person outside of that family.

COUNCILMEMBER BAISA: Can we say that a little clearer. So that's it's clearer that it's not just one member of the family, it could be all the members of the family that live there and then one more guy who doesn't live there.

CHAIR COUCH: Well this is, okay.

COUNCILMEMBER BAISA: I don't see that clearly. I can see where this could be twisted around.

CHAIR COUCH: Okay. Comments from the Department or Corp. Counsel? 'Cause the way that I read it says only one person other than.

COUNCILMEMBER BAISA: I would say all the members of the family and one person who doesn't live there may be employed. I think that's clear. A member, when it says a member of the family it could be just one guy.

MR. ALUETA: If you want, Mr. Chair.

CHAIR COUCH: Mr. --

VICE-CHAIR VICTORINO: No, no let me start ...*(inaudible)*...

CHAIR COUCH: -- Alueta?

MR. ALUETA: You could just say only one, I thought you had originally had only one person other than those residing on the property may be employed.

CHAIR COUCH: I'm fine with that.

COUNCILMEMBER BAISA: That makes sense to me.

MR. ALUETA: 'Cause yeah. Isn't that what --

CHAIR COUCH: Mr. Victorino and then Ms. Willenbrink --

VICE-CHAIR VICTORINO: Then we throw the monkey wrench in that, so let's say you just said that, right. But two brothers who are working together live in different places but one is the place of business or the home business, and he comes over in the morning and they have one employee, he doesn't reside there but he's family.

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COUNCILMEMBER BAISA: Yeah that's true, that's right.

CHAIR COUCH: But it says...

VICE-CHAIR VICTORINO: I mean you said reside, right, he just said reside.

CHAIR COUCH: Right, residing.

VICE-CHAIR VICTORINO: Residing okay, I'm trying to clear that but you also said family.

CHAIR COUCH: It says the member of the family residing on the property.

VICE-CHAIR VICTORINO: Residing okay.

COUNCILMEMBER BAISA: So you gotta live there.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: So, so now if I have a partnership with my brother and he comes over in the morning to help.

CHAIR COUCH: He's the other person that is not residing.

VICE-CHAIR VICTORINO: See that now that doesn't, okay.

COUNCILMEMBER BAISA: I don't ... *(inaudible)*...

VICE-CHAIR VICTORINO: I think then you got another problem, but...

CHAIR COUCH: What this was intended and again through all of our discussions people didn't want a bunch of employees coming --

VICE-CHAIR VICTORINO: Right.

CHAIR COUCH: --to a place, they only want...

COUNCILMEMBER BAISA: This is your own family. This is not other people.

CHAIR COUCH: Correct. There's many members of your own family --

COUNCILMEMBER BAISA: That's why I have ____ about passing this law. We don't wanna make a muddy mess.

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CHAIR COUCH: Right, so I think what Mr. Alueta said works. Right, Ms. Willenbrink, had something to say.

VICE-CHAIR VICTORINO: She does?

MS. WILLENBRINK: Well, I don't have anything to say.

CHAIR COUCH: Oh you were grabbing the microphone getting ready to --

MS. WILLENBRINK: If you wanna take family out I'm okay with that. I was going to just suggest only one person other than the family residing on the property.

COUNCILMEMBER BAISA: Then the family, okay.

MS. WILLENBRINK: But I don't, doesn't sound like everyone's agreeable to that.

CHAIR COUCH: I think what Joe, what did you say again, Mr. Alueta?

MR. ALUETA: Only one other person other than those residing on the property can work at the home-based business. I guess there's three ways to say to slice it, I guess you could say.

COUNCILMEMBER BAISA: Yeah.

VICE-CHAIR VICTORINO: Okay.

MR. ALUETA: We're saying is if you live on the property, right --

COUNCILMEMBER BAISA: You're okay.

MR. ALUETA: --you're okay, as long as you're living there you can work at the home-based business. So there could be five, I mean and definition of family there could be several unrelated people.

COUNCILMEMBER BAISA: Two dozen.

MR. ALUETA: So well, okay.

VICE-CHAIR VICTORINO: Oh yeah.

MR. ALUETA: So that would be a sweat shop but if you so if you wanted to run a sweat shop and so you had, you know, a bunch of certain migrants living in the basement then yes, you can bring one other person from another location onto the property at okay, regardless of and regardless of whether they're related okay, so if they're coming they can come here. Now the other way you could write it is as long as they're family even if the family lives off site only one unrelated

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family member could come off site. So you could have four brothers and sisters come to the site and that's not counted, it's only if they're unrelated but I think that makes it too confusing, I'm just trying to...

CHAIR COUCH: That's too, yeah.

MR. ALUETA: I'm just trying to make it like the idea is you trying to cut down the people coming to another location.

CHAIR COUCH: Correct, that's the intent and I think through our discussions that's what we all said, we only want --

COUNCILMEMBER BAISA: One.

CHAIR COUCH: --one person other than whoever's living on the property. So I think with I think everybody's okay with what Mr. Alueta said.

VICE-CHAIR VICTORINO: No, I'm not.

CHAIR COUCH: No, not his?

VICE-CHAIR VICTORINO: Because again having those who reside there you just hit the nail on the head, you can have 25 guys residing there and I can go take you to some houses not too far from here. So don't go there. So I mean really, no this, I mean you wanna play this game, I mean I'm just concerned that word snipping is not gonna solve the problem.

MS. WILLENBRINK: Chair? How 'bout this, only one person other than the family operating the home business on the property may be employed at the home business.

VICE-CHAIR VICTORINO: Different again.

CHAIR COUCH: It's different yeah the only issue with that is the word family because some people in the house are roommates also. They're not a family it's just, you know, I got a roommate so. I wanna leave the word family out of there but I what we wanna say. So Mr. Victorino you're concerned about the number of people living at the house.

VICE-CHAIR VICTORINO: Exactly because you're saying anyone that resides there can work. Okay, that's what you're saying.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: So if ten people living there they can all work on that business? Maybe that's more people than really should be there. Maybe it's designed not to do that. But then they, there are homes here that use little storage rooms for bedrooms.

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CHAIR COUCH: Well that's --

VICE-CHAIR VICTORINO: I just I don't wanna put it out there.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: I just saying, that could be the potential...

CHAIR COUCH: Understood but those are violations of a different section of Code.

VICE-CHAIR VICTORINO: Yeah but yeah, we're gonna allow it. We just said we're allowing it. Okay Mr. Spence, you got something else?

CHAIR COUCH: Mr. Spence?

MR. SPENCE: No I was gonna read the definition of family if that's --

VICE-CHAIR VICTORINO: Okay, go head.

MR. SPENCE: -- helpful or perhaps not.

CHAIR COUCH: Well I wanted to take family out of the definition. Mr. Hopper?

MR. HOPPER: Just a suggestion I think it be easier to work from what actually want to have allowed --

CHAIR COUCH: Right.

MR. HOPPER: --is the first step and then write it. I mean we can do that so I think the policy question is what does the Council and the Department want to allow as home-based businesses, who can work in them. Determine that first and then we can come up with language to say what that is. That should be the first step and it doesn't sound like that's really being done here, we're just looking at different ways of if you're not sure what the goal is then you're not going to be able to get past the wording at that point. So that would be the suggestion.

CHAIR COUCH: Thank you. And I believe the goal is one other person. But now there's concern about who's living in the house but I really think that, that's a separate, if you got too many people in the house that's taking care of in the regular Residential Code. So if you're gonna violate that, you're violating the other part. So, Ms. Cochran, you had a comment?

COUNCILMEMBER COCHRAN: Well okay let me take a shot at this so something like only one person other than the residents at the home-based business site may be employed. So taking out the word family and changing it --

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CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: --to just like the residents, the residents of the home-based business site --

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: -- or property so that's where I was trying to replace the word family with residents.

CHAIR COUCH: Right.

COUNCILMEMBER COCHRAN: Something like that so it keeps it broader it doesn't hone it down to just family and we all can consider each other family.

CHAIR COUCH: Exactly.

COUNCILMEMBER BAISA: Oh yeah, if we dig deep enough, yeah.

CHAIR COUCH: I mean we have some cousins on the Council I believe.

COUNCILMEMBER COCHRAN: So.

CHAIR COUCH: Alright, I think Mr. Hopper's right that our goal is one extra person from whoever's residing on the property.

COUNCILMEMBER BAISA: Right.

CHAIR COUCH: If there's too many people residing on the property Mr. Victorino, that's a different issue that can be handled in a different Code. Ms. Hopper, Mrs. Hopper, sorry do you have a potential language there?

MS. HOPPER: Yes, Mr. Chair, I just took down what Mr. Alueta, said only one person other than those residing on the property may be employed.

CHAIR COUCH: That's pretty short, succinct and I think...

COUNCILMEMBER BAISA: It makes, I think it's clear.

COUNCILMEMBER COCHRAN: Yeah, something like that, there you go.

CHAIR COUCH: The only one that it had that there's an issue is if there's more than a bunch of people living on the property, but again that's a separate ordinance that already exists. So are we okay

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with that language? Do we need to do a vote or I see no objections, I have kind of a, sort of objection from the Vice Chair of the Committee but...

VICE-CHAIR VICTORINO: I'm one, you know, if they all agree, I going vote no I don't care what

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: Because if I stand strong on something, you know, I'm not gonna change, I'm not so I say no, but fine if the rest say yes then we'll go with that.

CHAIR COUCH: Okay, so we'll change that language in there. Somebody else had another question on some of this language?

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Yes, Chair Baisa?

COUNCILMEMBER BAISA: Yeah I might as well get 'em all out.

CHAIR COUCH: Get 'em out.

COUNCILMEMBER BAISA: Yeah.

CHAIR COUCH: That's what we're here for.

COUNCILMEMBER BAISA: When we were reviewing it, I had put a little questions marks where I thought we might wanna talk about these things. I just figure we better talk about 'em now before we pass it.

CHAIR COUCH: Yup.

COUNCILMEMBER BAISA: Okay same section E. Materials, equipment, or more than one vehicle associated with the home business shall not be stored outside of structure on the property. Okay one vehicle associated with the home business. I have a picture in my mind and I wish I had thought to take a picture of it to share with everybody. But I'm thinking of a home I know that has a home business and there or I don't know if it's a home business. It's a business that they do out of their home but they don't do it there, okay. But they have a lot of equipment and they have a lot of vehicles associated with that business and it's all parked in their driveway and the vehicles obviously say xyz business. So what are we gonna do about those, they can only have one; otherwise, it all has to be put in a garage or?

CHAIR COUCH: That's the intent of this bill is that if it's big enough for multiple vehicles and kind of a base yard that almost that's the definition of a base yard then it should it be a commercial

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business, it shouldn't be run out of the home or at least the storage of the vehicles shouldn't be in the neighborhood. That's what the concern is with a lot of the testimony we talked about.

COUNCILMEMBER BAISA: Okay. Let me take this try. Let me try worse okay.

CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: My husband and I own bookkeeping service, okay, and our vehicles, our, all our cars are painted with xyz bookkeeping service or Baisa's bookkeeping and we park those cars in the front of our yard because we live there, two of us.

CHAIR COUCH: Got no garage?

COUNCILMEMBER BAISA: Usually, more than 99 percent of people I know their garage is full of stuff.

VICE-CHAIR VICTORINO: Right, exactly.

COUNCILMEMBER BAISA: Okay, not in my house 'cause I will not allow it. But, you know, lot of people have no place to put stuff and so they park their cars in their driveway and their garage is full of stuff and they either have their picnic table or pool table or they have their storage or, you know, whatever it is they need. People need their stuff and they don't have a place to put it. So now we're gonna have our two cars parked in the driveway. Is that gonna comply with this or is that a problem?

CHAIR COUCH: That I think if the Department were to look at that, that would be a problem if there was a complaint.

COUNCILMEMBER BAISA: Alright somebody complained and said, you know, that Baisas are doing their bookkeeping out of their house. You know, I'm worried about this, I think...

CHAIR COUCH: Put magnetic signs on your cars and take 'em off.

COUNCILMEMBER BAISA: You know, local people, I'm thinking about our local life...

CHAIR COUCH: Understood, that's exactly right, you, we do have situations like that.

COUNCILMEMBER BAISA: And we have parents that living and they have three adult kids living at home so they have five cars, you know, they don't only have two, they have five at one point we had five when our three kids were home, everybody had a car. We didn't have signs on 'em but, you know, we had five cars, that's a possibility. I don't know, I just want us to be realistic about what we're passing.

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CHAIR COUCH: Understood totally, it's the question on that would be alright, are you saying that maybe we say more than two vehicles?

COUNCILMEMBER BAISA: I think two would more realistic --

CHAIR COUCH: Two is more realistic than one?

COUNCILMEMBER BAISA: --because generally most people have two cars even, you know, we been talking about parking recently for housing accommodations or, you know, like senior housing or the rental housing or whatever. I think everybody's realizing that two cars is at least the standard, kind of a standard.

CHAIR COUCH: But with the business name painted on it as opposed to magnetic signs which most. That's what I mostly see is magnetic signs.

COUNCILMEMBER BAISA: I don't know, you know, IRS looks at your car and they say you better have enough advertising on it or you can't claim it as a business expense, sorry, been there.

CHAIR COUCH: Okay. I'm fine with two, the, again as Mr. Hopper says the goal, what's the goal here. The goal is to not have for instance --

COUNCILMEMBER BAISA: Two or more.

CHAIR COUCH: --xyz plumbing company who runs, dispatches out of their home have every, all of their ten trucks come into the house or park on the street or...

COUNCILMEMBER BAISA: Chair I know what you're talking about and we have that situation also where you have companies that have all kinds of vehicles, vans, you know, equipment, big trucks whatever and they're all painted and whatever, and now to me that's a whole other thing. But we were trying to talk about small home business and I think two cars is not too much to include for small home business.

CHAIR COUCH: Okay, no, we're good. We have quorum still. I agree, I'm fine with two but not much more than two.

COUNCILMEMBER BAISA: No, I can live with that.

CHAIR COUCH: Okay with, is there any objection to change that to two? Don't see any so we can change that to two. Any other concerns you have on this, Members, not only Chair Baisa, but anybody else?

VICE-CHAIR VICTORINO: The other concern I had with that same line of questioning is it has to be out of sight, right?

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COUNCILMEMBER BAISA: Yup.

VICE-CHAIR VICTORINO: And enclosed.

COUNCILMEMBER BAISA: Right.

VICE-CHAIR VICTORINO: So like many people have open garages. Probably more like a carport but it's a garage because you got three sides.

COUNCILMEMBER BAISA: Right.

VICE-CHAIR VICTORINO: You know, you don't have a garage door but it's open and so what happens then when they have two of those vehicles parked in the garage but it's open, you can see it, and then you have one more parked outside.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: You know.

CHAIR COUCH: Understood, no, that makes sense.

VICE-CHAIR VICTORINO: And there's a lot of houses especially Upcountry, you know.

CHAIR COUCH: With carports.

VICE-CHAIR VICTORINO: Well they're garages because they're three sided. But then there's no garage door.

COUNCILMEMBER BAISA: Yup.

VICE-CHAIR VICTORINO: There's no garage door, right.

CHAIR COUCH: I guess I would ask the Department how they would enforce that.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Is that an enclosed is that enclosed or sufficiently enclosed? And I think we might be outside of the 80 percent, we're getting down to the 90 or 95th...

VICE-CHAIR VICTORINO: Oh no I don't know Upcountry and you know even a lot of the older homes in Kahului.

COUNCILMEMBER BAISA: In the new ones.

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VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Yeah but how many of them are doing home businesses?

VICE-CHAIR VICTORINO: Well, I'm just saying well, well, well, you just said we're getting out of the 80 percent. I'm saying no, we're not because I believe when you talking about older homes for which many never put garage doors in, the modern homes yeah, they're putting it in now, but they are many that did not in the, you know, in '70s, '80s, and into the '90s and then all of the, you know, about the late '90s so everybody started, you know, all the new homes had garage doors.

CHAIR COUCH: Okay, Department?

MR. ALUETA: I gotta go look up the definition of enclosure but just my gut tells me no. It's three sided is not enclosed. I mean it wouldn't be...

CHAIR COUCH: What would be better language then? You see what the intent is is that you don't wanna have a bunch of...

COUNCILMEMBER BAISA: Out of site.

CHAIR COUCH: Yeah.

VICE-CHAIR VICTORINO: You want out of site. Yeah, I'm all for that but how do you penalize people that don't have enclosed garage? Now I have a garage door so I could put two vehicles in there and I could have one more parked outside.

CHAIR COUCH: Correct.

VICE-CHAIR VICTORINO: See I'm really taking advantage of the situation. But my neighbor has no enclosed garage, what happens then? I'm sorry Mr. Spence, I know you gave me the eye that why did I think of that. Because I know there's a lot of people that have businesses that don't have enclosed garages and that's why...

CHAIR COUCH: But do they have three vehicles? That's...

VICE-CHAIR VICTORINO: Well.

CHAIR COUCH: I don't know if we're getting into a little bit more minutia than necessary at this point. If like I say if we pass the bill and we revisit it, so the Planning Department comes and says, you know, we've had 300 complaints and 250 of 'em were because they're people have three vehicles and a carport then we can tweak the language. If it's one or two are we wasting a lot of time on a manini subject. No you don't think we're wasting, okay.

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VICE-CHAIR VICTORINO: 'Cause ... (*inaudible*)... know a lot of people who have vehicles.

CHAIR COUCH: Right, they have vehicles but do they have three vehicles for the business, you know, in a carport?

VICE-CHAIR VICTORINO: And I'm gonna say I know two of 'em right in my neighborhood who have more than two.

COUNCILMEMBER BAISA: Would you like a site visit?

CHAIR COUCH: Yeah, maybe we have to do a site visit. Mr. White?

VICE-CHAIR VICTORINO: I'm sorry.

COUNCILMEMBER WHITE: You know another point is that if you're running a small business you probably have supplies and equipment --

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER WHITE: --in your garage.

COUNCILMEMBER BAISA: In your garage.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: Right.

COUNCILMEMBER WHITE: At my house my cars have never been in the garage ever. You know, but there are times when I kinda wonder why I built it, but I know it's because I store a whole lot of stuff in there. I'm not running a business but I can understand if you're running a small business you're going to be using your garage as your warehouse and...

CHAIR COUCH: But I guess the question is are you gonna have three vehicles that are marked as your business vehicles, and if you do is that to the point where you may need to either build an enclosure or move to a commercial? That's the whole idea is where are we drawing the line to say okay, you're no longer, your impact on the neighborhood is now big enough that you need to go to a commercial industry. See what I'm trying to say?

VICE-CHAIR VICTORINO: I understand what you're trying to say but again what impacts you going have immediately and I know of and I can take you if you want site visit I take you to...

CHAIR COUCH: But those are illegal, completely illegal now.

VICE-CHAIR VICTORINO: But they're there and we're trying to address it so --

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CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: --let's address it correctly.

CHAIR COUCH: Right, right.

VICE-CHAIR VICTORINO: So what I'm saying is out of site, you know, should be if it's three-sided and the vehicles are in there then that should be considered out of site. Just because there's no garage door... --

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: That's what I'm trying to get to. And I'm maybe being semantic about it but I really believe that's not fair if I have a garage door and I can put two cars in and leave one outside, I got three vehicles. That's not fair to the guy who lives, an old garage. Oh Molokai would probably have very similar 'cause I don't know of many homes in Molokai that have garage doors. I mean no offense, I'm not, no, no, no...

CHAIR COUCH: Well, you know, the language, let's go back to the language. The language doesn't say enclosed, it's you talking E, right? It says materials, equipment, or more than now we said two vehicles associated with the home business shall not be stored outside a structure on a property. A carport is a structure. If you're inside that carport you're not outside a structure on the property.

VICE-CHAIR VICTORINO: Okay, I don't know why I read someplace where it said...

CHAIR COUCH: I think that's in the special use. Talks about...

VICE-CHAIR VICTORINO: Okay.

CHAIR COUCH: Somewhere in there. Okay.

VICE-CHAIR VICTORINO: So, so but Mr. Alueta, you're okay that, that would be considered a structure?

MR. ALUETA: Yeah, we were just talking about it 'cause we were looking for that same enclosure provision and we couldn't see it and so --

VICE-CHAIR VICTORINO: Okay.

MR. ALUETA: -- but it would need a structure.

CHAIR COUCH: It meets the definition of structure.

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VICE-CHAIR VICTORINO: A carport or a garage --

MR. ALUETA: Right.

VICE-CHAIR VICTORINO: --would be considered.

CHAIR COUCH: Without a door.

VICE-CHAIR VICTORINO: 'Cause earlier you said, you know, but okay, alright, I'm good with that if that's how you define it then that's simple, that's simple enough, okay.

CHAIR COUCH: Ms. Cochran?

COUNCILMEMBER COCHRAN: Vine trellis, what, no, a vine trellis.

CHAIR COUCH: Well, would have to have a couple of them around.

MR. SPENCE: There's a lot of things that meet the definition of a structure.

CHAIR COUCH: Yes.

COUNCILMEMBER COCHRAN: Yeah, I mean you got, it's sort of rafter beams and then you grow nice jade vine. I...

CHAIR COUCH: That's okay, yeah.

MR. SPENCE: You could have a trellis, you could have one of those tent structures. I mean there are some that require permits and some that don't but --

COUNCILMEMBER COCHRAN: Right.

MR. SPENCE: --that's a, structure is a pretty broad.

COUNCILMEMBER COCHRAN: Okay.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: And but my main question, it wasn't about vine trellises, fines like I, we enforce but then so what happens, I mean you give warnings, you write them up, you revoke, you know, permits, what dollar amount fines, we don't have that stated here at all.

MR. SPENCE: No, you don't need that, all you need for enforcement is a reference to the Enforcement Section of the Code.

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CHAIR COUCH: Which is 19.530.030.

MR. SPENCE: Yeah and --

CHAIR COUCH: That has all the fines in it.

MR. SPENCE: --standard procedures, yeah we already have that in place --

COUNCILMEMBER COCHRAN: Okay, so we don't need to state it here.

MR. SPENCE: --standard procedures, notice of warning and actually before we issue a notice of warning we do an investigation. We actually will talk to the folks and say hey, you need to clean this up, you need to change this, we're gonna, otherwise, we're gonna issue you a notice of warning. That starts a clock ticking and we can give 'em 30 days or whatever and then go the notice of violation. Once there's a violation, that's either, you know, we start levying fines, sometimes attorneys get involved, sometimes not, et cetera.

COUNCILMEMBER COCHRAN: Okay, thank you.

MR. SPENCE: Yeah, so that's no need to say it explicitly in this particular section.

COUNCILMEMBER COCHRAN: Okay 'cause it points to the Code that addresses that.

MR. SPENCE: Right.

CHAIR COUCH: Yup, yup.

COUNCILMEMBER COCHRAN: And just real quick, so you mentioned attorneys, do you folks go towards mediation at times, if there's no legal, you know, sort of stuff?

MR. SPENCE: Yes.

COUNCILMEMBER COCHRAN: Okay, that's good, it's.

MR. SPENCE: Yup, everything is, you know, people sometimes appeal the violation sometimes they don't. They can go straight to Board of Variances and Appeals, sometimes we go to mediation first and then, I mean there's many variables on the subject.

COUNCILMEMBER COCHRAN: Okay, good options.

MR. SPENCE: Yup.

COUNCILMEMBER COCHRAN: Thank you, Chair.

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CHAIR COUCH: Okay, thank you. Members, any other concerns on anything in here? I know I flagged a couple but I do wanna get yours first. If not, I'd like you to refer you to 19.67.030, that's Page 7, E and F. I'm sorry F, I guess just F.

VICE-CHAIR VICTORINO: The maximum parking stalls.

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: And the hours 8:00 to 7:00 p.m.

CHAIR COUCH: Correct. Actually it's D and F. D says "on-site home business hours of operation shall not interfere with the use and enjoyment of adjacent properties." That leaves it open...fairly wide open and for interpretation, but then you add F which means that they can only park between eight and seven, 8:00 .a.m. and 7:00 .p.m. than that defines at least when you can have people parking now if you have people dropping off. I don't know that we're gonna have that. Do we wanna put hours in? I know we discussed it, that's why we took 'em out. But I just wanted to revisit that. Is anybody concerned about not having actual hours of business? Because I think when we discussed it, we talked about well, you've got, if you're doing your website development business, does that mean you have to stop it at 7:00 at night, even if you don't have customers? So I think that's why we said you can operate the business as long as you don't have customers between 8:00 .a.m. and 7:00 .p.m. I think that's why we broke it out. Any concerns with that as it is now?

MR. SPENCE: Mr.?

CHAIR COUCH: Yes, Mr. Spence?

MR. SPENCE: In, you brought up Item D, and also thinking about Mr. Victorino's comments earlier. On-site home business hours of operation shall not interfere with the use and enjoyment of adjacent properties. What is the use and enjoyment of one person to one person is not to another. I'm not sure how we're gonna enforce that, because I mean maybe I just don't like my neighbor, his or her mere presence is interfering with the enjoyment of my property.

CHAIR COUCH: But that and that is exactly why we put it.

VICE-CHAIR VICTORINO: Are you trying to tell me, Mr. Spence, because I don't like Mr. Couch, I would have, no, no, no, I wouldn't do that.

MR. SPENCE: I don't think it, you guys don't live next to each other.

VICE-CHAIR VICTORINO: Thank god, right.

MR. SPENCE: So I'm not sure how --

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VICE-CHAIR VICTORINO: Yeah.

MR. SPENCE: --I would enforce that.

VICE-CHAIR VICTORINO: I agree that is kind of ambiguous.

CHAIR COUCH: The question is about customers versus again, you know, the book keeper who's got her or his clients' stuff and is working on it, just happens to work on it after dinner. If Mr. Spence doesn't like Mr. Victorino and Mr. Victorino's doing his insurance work after 7:00 at night can Mr. Spence call Mr. Alueta and say he's doing his home-based business.

MR. ALUETA: It would be a home occupation; therefore, it would be allowed and we wouldn't.

MR. SPENCE: Yeah, just bookkeeping.

CHAIR COUCH: Understood.

MR. ALUETA: Yeah, so I mean like I say a lot of the home occupation caught a lot of the things that we consider really benign and so.

CHAIR COUCH: Right.

MR. ALUETA: But if they were doing, you know, woodworking and --

CHAIR COUCH: After hours.

MR. ALUETA: --carving, you know.

CHAIR COUCH: And I'm fine with putting it back in if that's.

MR. ALUETA: I think that it's a nuisance then we'd probably go and fine 'em on that so.

CHAIR COUCH: So shall we put in in D then on-site home business hours of operation...shall be between 8:00 .a.m. and 7:00 p.m.?

VICE-CHAIR VICTORINO: What if nothing else let's try it again, you know...

CHAIR COUCH: Try it as is and then if when we revisit.

VICE-CHAIR VICTORINO: No, no, no, no, put it there, move it from where it is --

CHAIR COUCH: Okay.

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VICE-CHAIR VICTORINO: --to move it to D, because I think it's more appropriate in D. I don't like the verbiage "use and enjoyment of an adjacent property".

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: 'Cause that to me is wide open.

CHAIR COUCH: Yup.

VICE-CHAIR VICTORINO: You know, that's the one I have. I don't mind putting the hours and then, you know, see how it goes after a year, year and a half and when we revisit --

CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: --then see if it's working or not.

CHAIR COUCH: Sure. So between 8:00 .a.m. and 7:00 .p.m. then is good?

COUNCILMEMBER CRIVELLO: Yup, remove D.

CHAIR COUCH: Yup, well I'm sorry I would put in D on-site home business hours of operation shall or shall be between 8:00 .a.m. and 7:00 .p.m.

VICE-CHAIR VICTORINO: And take the other part out.

CHAIR COUCH: And then we'll take those times out of the parking, we still have the number of parking spaces maximum. We'll just take the time out of the parking area, does that sound right?

COUNCILMEMBER CRIVELLO: Okay.

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: Okay, no objections to that? You got that, Staff? Okay.

VICE-CHAIR VICTORINO: I think that's more clear.

CHAIR COUCH: Yeah, that is.

VICE-CHAIR VICTORINO: I think it clarifies that and again.

CHAIR COUCH: Then if there's a situation where we didn't anticipate we can certainly revisit it. Those are the, that's the only thing I had a concern with.

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VICE-CHAIR VICTORINO: Well parking spaces I think Ms. Baisa had something about that, didn't you, on the parking spaces as listed here or?

COUNCILMEMBER BAISA: No.

VICE-CHAIR VICTORINO: Oh okay, I thought you had something you were thinking of bringing up, okay, that's fine.

CHAIR COUCH: Department, do you have any more concerns with things as we've kind of revised them?

MR. ALUETA: No, it makes it clearer now so someone's doing a bunch of woodworking late at night that is a definite...

CHAIR COUCH: That will clear it up.

MR. ALUETA: Yeah, I mean it just makes it a little easier on the enforcement side.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: Chair?

CHAIR COUCH: Yes, Ms. Cochran?

COUNCILMEMBER COCHRAN: Is there currently, I always thought you could do construction work till like nine, eight, 9:00 .p.m. at night? Is that not true? Has it always been 7:00 .p.m. as quiet time, quiet hours? Like if you're building this is not a home-based business thing this is just your saw on and you're pounding nails and building your add-on, whatever permitted use all that, is there a, there's no technical...

CHAIR COUCH: I think that's the State. I thought it was. I thought 7:00 was...

COUNCILMEMBER COCHRAN: 'Cause I always thought it was 8:00 or 9:00, no?

VICE-CHAIR VICTORINO: Mr. Hopper, would you ask Mr. Hopper to check if there something in the State --

COUNCILMEMBER COCHRAN: Is there HRS on that?

VICE-CHAIR VICTORINO: --HRS if there's anything in that?

MR. HOPPER: I can't get that right now, it's actually ...*(inaudible)*...

COUNCILMEMBER COCHRAN: Oh, okay. And then we can be more...

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MR. HOPPER: I can't get actually on-line right now, I'm having trouble with that.

COUNCILMEMBER COCHRAN: Okay, alright, never mind.

CHAIR COUCH: Okay.

COUNCILMEMBER COCHRAN: It is what it is but I just...

CHAIR COUCH: Okay, yeah. If that's an issue we can swap that.

VICE-CHAIR VICTORINO: I know the only thing is you cannot start before 7:00 .a.m.

CHAIR COUCH: Right.

VICE-CHAIR VICTORINO: Okay, that I know of.

CHAIR COUCH: Yup.

VICE-CHAIR VICTORINO: But concluding generally was 5:00 or 6:00. I remember reading that somewhere but I may be wrong 'cause I had the same issue with Imi Ikena and --

CHAIR COUCH: Correct.

VICE-CHAIR VICTORINO: --they were complaining and there was something but I'd have look it up in the HRS and...

CHAIR COUCH: But we're what we're saying is for the home business --

VICE-CHAIR VICTORINO: Yeah.

CHAIR COUCH: --because people may wanna come just after dinner but not too late that's why we moved it to 7:00. I think that was kind of a consensus last time. Okay and then lastly I believe Staff has come, tried to come up with some language for a Section 0 point, I mean not a Section but a 19.67,080 saying that the Council shall review this Chapter...you want 18 months or 24 months after it's in effect? I think 24 let's give 'em 24 months. Yes, Chair Baisa?

COUNCILMEMBER BAISA: Chair, I like, I would go for the shorter time.

CHAIR COUCH: Eighteen months.

COUNCILMEMBER BAISA: And the reason I would is we put a time limit and a review on the B&B ordinance. We can say we want one but it gets complicated to do and the clock keeps running. So maybe if we say 18 we'll get around to doing it in two and a half if we're lucky.

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CHAIR COUCH: Okay.

COUNCILMEMBER BAISA: That's my only reason for...

CHAIR COUCH: Eighteen months, without objection...

COUNCILMEMBER BAISA: That's the only reason why I would pick the shorter time is it's very, very hard for us to say in 18 months we're going to actually look at this because stuff comes up, we're not ready.

CHAIR COUCH: Right.

COUNCILMEMBER BAISA: Yeah.

VICE-CHAIR VICTORINO: And again 18 months I agree with Chair Baisa and that was my original suggestion.

CHAIR COUCH: Sure.

VICE-CHAIR VICTORINO: And of course we've always asked for extensions and different issues come up --

CHAIR COUCH: Yes.

VICE-CHAIR VICTORINO: --so that's not a problem, but more importantly we know there's a --

COUNCILMEMBER BAISA: Yes.

VICE-CHAIR VICTORINO: --fixed date --

CHAIR COUCH: There's a fixed time.

VICE-CHAIR VICTORINO: --and we're gonna look at it.

CHAIR COUCH: Yup.

VICE-CHAIR VICTORINO: And that's not gonna be out of sight, out of mind. Now obviously if get complaints come in quicker than that like in other issues like we've had in the past...

CHAIR COUCH: We'll do it sooner.

VICE-CHAIR VICTORINO: Yeah, oh then we'll look at it immediately and as soon as possible, yeah so --

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CHAIR COUCH: Okay.

VICE-CHAIR VICTORINO: --I'm fine with 18 months.

CHAIR COUCH: Okay. Members, any objection to 18 months review? Okay. Now the question I have for Members, we've made some revisions, we've kind of did consensus on the revisions. Would you rather see those revisions and then vote on it or are you okay with what we discussed and we can vote on it now? We'll get you the, you know, the revised before it gets into Council. Totally up to you. Would you wanna come back one more time? Alright.

COUNCILMEMBER BAISA: One more last time ... *(inaudible)*...

VICE-CHAIR VICTORINO: I'd like to have it one more time --

CHAIR COUCH: You've got it.

VICE-CHAIR VICTORINO: --clean version, that way we all see what we, you know --

CHAIR COUCH: You've got it.

VICE-CHAIR VICTORINO: --we've agreed upon, that way there's no ambiguity compared with yours and...okay.

CHAIR COUCH: Okay, what we'll do is get that and get that out to the Committee right away as soon as we get it cleaned up and sent out and then I'll schedule it for our next meeting.

COUNCILMEMBER BAISA: Chair?

CHAIR COUCH: Yes?

COUNCILMEMBER BAISA: I hate to bring this us up, because unfortunately I have to leave soon, but we had some e-mails in regard to addressing the tax consequences and we haven't gotten there yet, more so why I would like to have one more shot at this.

CHAIR COUCH: Okay yeah, I did get an e-mail on the tax consequences. Mr. White, concern, your Committee's deals with the taxes, should we put something in here, should we put something in 3.48? Or how do you wanna, I guess we it would have to be 3.48, or do we because of the highest and best use is somebody gonna lose their homeowners exemption...should they lose their home owners exemption? That's a whole new philosophy that we have to deal with.

COUNCILMEMBER WHITE: Yeah, I leave it to Corp. Counsel and Staff to determine whether it needs to go into 3.48 or whether it can be mentioned in here. But I agree I don't, you know, we're on a

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real slippery slope where, you know, it, who's gonna determine whether this is a significant advantage to somebody or a not so significant advantage --

CHAIR COUCH: Right.

COUNCILMEMBER WHITE: --to the point where they should lose their --

CHAIR COUCH: Homeowners exemption.

COUNCILMEMBER WHITE: --homeowners tax exemption so --

VICE-CHAIR VICTORINO: Yeah.

COUNCILMEMBER WHITE: --as you know when we address tax issues it's a very touchy subject.

CHAIR COUCH: Yes. Okay, maybe I'll make a call to Mr. Teruya and see how he would handle it.

COUNCILMEMBER BAISA: I'd like to have that when we have our final take a look.

CHAIR COUCH: Okay, maybe I'll write a letter then to him how he would handle it. Okay and that's the...see, the concern I would have there is nobody's getting a permit, it's an outright permitted use for some of these things so how's the Tax Department even gonna know?

COUNCILMEMBER WHITE: What triggers a change in ...*(inaudible)*... treatment?

CHAIR COUCH: Correct and if they go to a Special Use then does that trigger? Alright, I'll see what I can find from Mr. Teruya, see how he would handle that. Thank you for bringing that up, Madame Chair. So Members, what we'll do is we'll get this written up, we'll get it to you ASAP and I'll bring this up at our next meeting. Hopefully it will be just a short section so I'll add it to some other things that we were planning on doing at the next meeting. Without objection, is that okay?

COUNCIL MEMBERS VOICED NO OBJECTIONS.

CHAIR COUCH: Thank you very much for a lively discussion, Members. Please when I give you the new, if you still have some more concerns give us a holler and we'll see what we can do to get that done. So with that I wanna thank the members, most of them left but the members of the public who came and testified and who most, I said most. Also who called, I had long discussions with several people on the phone when they saw that the some of these changes, so I'd be happy to discuss it with anybody else again. We're trying to come up with something that will work for the most part and get the Department able to enforce on stuff that isn't working in the neighborhood, so if you have further concerns please feel free to talk to me in my office and see what we can come up with. Thank you very much, Staff, for working very hard on this.

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We've had several meetings. And thank you, Department, for bearing with us and we'd like to get you in once we get this clean version and see if we can come up with other things, so.

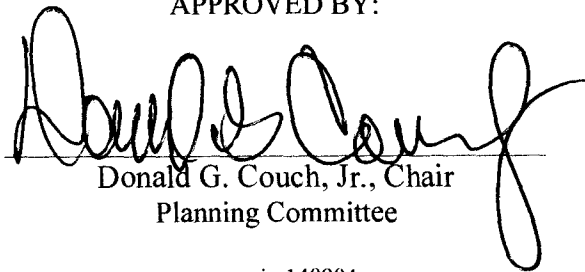
MR. SPENCE: Thank you, Mr. Chairman.

ACTION: DEFER.

CHAIR COUCH: With that this meeting is adjourned. . . . *(gavel)* . . .

ADJOURN: 11:43 a.m.

APPROVED BY:



Donald G. Couch, Jr., Chair
Planning Committee

pc:min:140904

Transcribed by: Jean Pokipala


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CERTIFICATE

I, Jean Pokipala, 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 29th day of September, 2014, in Wailuku, Hawaii



Jean Pokipala